



CITY COUNCIL STAFF REPORT

MEETING DATE: July 7, 2004

ZONING AMENDMENT APPLICATION, ZAA 01-20: TENNANT-SAFEWAY

RECOMMENDED ACTION(S):

- Open/close Public Hearing
- Waive the First and Second Reading of Ordinance
- Introduce Ordinance

EXECUTIVE SUMMARY: The City has received a request to amend the precise development plan for the Tennant Station shopping center located on the south east corner of the intersection of Monterey Rd. and Tennant Ave. The requested amendment would allow for a reduction in the drive aisle width between the new Safeway building and the existing shopping center building to the east.

In May 2002, the City Council approved a precise development plan which showed a 25 ft. wide drive aisle and an 8 ft. wide sidewalk on the easterly side of the new Safeway store in the Tennant Station shopping center. The drive aisle provides access to the main parking areas in the center from an existing driveway on Vineyard Boulevard. In April 2004, the eastern wall on the Safeway building was under construction and it became known that the drive-aisle width was reduced from 25 ft. to 21.69 ft. On April 27, the Planning Commission discussed the reduced driveway between the new Safeway building and the existing shopping center buildings to the east. The Commission recommended that the applicant file for a PUD amendment to allow for consideration of a revised drive-aisle design.

The applicant has submitted plans which show a 23.5 ft. wide drive aisle and a 6 ft. wide planter. To approve a reduction in the minimum (25 ft.) two way drive aisle width would require an approval of a reduction in the minimum standard through the PUD process.

On June 8, the Planning Commission considered the PUD amendment request to allow for a reduction in the drive aisle width. The Commission voted 5-1 (Commissioner Lyle voting no) to approve the amendment request. The following conditions are recommended by the Commission to further enhance and mitigate the visual impacts associated with the reduced drive aisle:

- Pavers at specific cross over locations (pedestrian crosswalks)
- 24 foot drive aisle (curb to curb) and a 6-inch curb along the drive aisle
- Tree location(s), height, type to be decided with the ARB
- Shrub planters located between – not in front of – columns
- Height of metal buttresses and/or trellis to be negotiated with ARB
- Directional signs placed for clear location of all businesses within the center

Staff supports the PUD amendment with the additional requirements listed above. A copy of the Commission's staff report and meeting minutes are attached for the Council's reference.

FISCAL IMPACT: No budget adjustment required.

Agenda Item # 24

Prepared By:

Senior Planner

Approved By:

Planning Manager

Submitted By:

City Manager

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE PRECISE DEVELOPMENT PLAN APPROVED UNDER ORDINANCE 1546 FOR THE TENNANT STATION SHOPPING CENTER LOCATED IN THE PUD DISTRICT ON THE SOUTH EAST CORNER OF THE INTERSECTION OF MONTEREY ROAD AND TENNANT AVENUE. (APN's 817-06-039, 040 & 41)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The proposed zoning amendment hereby amends Ordinance No. 1546 New Series, and is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. The PUD amendment is exempt pursuant to CEQA section 15332-Infill development

SECTION 4. The City Council hereby approves an amendment to the precise development plan adopted as Figure I as part of Ordinance 1546. The approved amendment is shown on the attached Exhibit "A" dated May 17, 2004, entitled Safeway Morgan Hill, CA by Craig and Grant Architects. The scope and limitations of the proposed amendment are shown in the attached Exhibit "A". All other aspects of the development plan approved as part of Ordinance 1546 shall remain in affect and are not superceded by this ordinance.

SECTION 5. The Council finds that the changes incorporated by Exhibit "A" are necessary to comply with the minimum zoning requirements as set forth in Chapter 18.30 of the Municipal Code (Zoning Code).

SECTION 6. The amendment to precise development plan shall include the following:

- a. Pavers at specific cross over locations (pedestrian crosswalks)
- b. 24 foot drive aisle (curb to curb) and a 6-inch curb along the drive aisle
- c. Tree location(s), height, type to be decided with the ARB
- d. Shrub planters located between – not in front of – columns
- e. Height of metal buttresses and/or trellis to be negotiated with ARB
- f. Directional signs placed for clear location of all businesses within the center.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 7th Day of July 2004, and was finally adopted at a regular meeting of said Council on the 21st Day of July 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 21st Day of July 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *July 7, 2004*

Agenda Item # 25

Prepared By:

Associate Planner

Approved By:

Planning Manager

Submitted By:

City Manager

ANX-03-04: Burnett-MHUSD Sobrato High School

RECOMMENDED ACTION(S):

1. Open/Close Public Hearing
2. Adopt Resolution approving annexation

EXECUTIVE SUMMARY: A request to annex three parcels on the north side of Burnett Ave. east of Monterey Rd. totaling 27.7 acres. Parcels 725-01-012 & 013, which total 27.1 acres, have a land use designation of Public Facilities and will contain the Sobrato High School. Parcel 725-01-021, which is 28,749 sq. ft., contains an existing single-family home and has a land use designation of Single-Family Medium. In July 2002, the City, the Morgan Hill Unified School District, and the City of San Jose entered into an agreement in which the City would provide services to the Sobrato High School site on Burnett Avenue. The School District agreed to move the school buildings out of the existing greenbelt onto parcels 725-01-012 & 013 and use the land in the San Jose Greenbelt for athletic fields.

The City committed to annexing the school parcels prior to the opening of the school in August 2004. The annexation of the school parcels meets General Plan policy 19e, which encourages cooperation with the City of San Jose, Santa Clara County, and the Morgan Hill Unified School District to insure a high quality education experience for school age children by providing adequate and safe school facilities, preventing overcrowding, and providing school locations convenient to the population served. The annexation of Parcel 725-01-021 is required to avoid the creation of an unincorporated island within the City.

In order to complete the annexation, the Council approved the following in December 2003:

- An amendment to include all the parcels into the Urban Service Area;
- An amendment to the Urban Growth Boundary to include parcels 725-01-012 & 013 into the UGB;
- A General Plan amendment to change the land use from Rural County to Public Facilities for parcels 725-01-012 & 013;
- Prezoned parcels 725-01-012 & 013 Public Facilities and parcels 725-01-021 R1-7,000.

On December 2, 2003, the Planning Commission voted 5-0 to recommend approval of the annexation. The annexation was not forwarded to the Council until the County Surveyors Office certified the legal description and annexation map. Certification of the map and legal description was received by the City on May 28, 2004. A copy of the Commission's December 2, 2003 report and minutes are attached for the Council's reference.

FISCAL IMPACT: Applicant will be paying the City a per hour fee for the processing of the application.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL MAKING DETERMINATIONS AND APPROVING THE REORGANIZATION OF TERRITORY DESIGNATED “MADRONE ANNEXATION NO. 11,” APPROXIMATELY 27.7 ACRES LOCATED ON THE NORTHSIDE OF BURNETT AVENUE, AND WITHDRAWAL OF SAID TERRITORY FROM THE SOUTH SANTA CLARA COUNTY FIRE PROTECTION DISTRICT. (APNs 725-01-012, 013, & 021)

WHEREAS, a written petition for the annexation of certain territory to the City of Morgan Hill and detachment of said territory from the County of Santa Clara, consisting of 27.7 acres on Burnett Avenue (APNs 725-01-012,013, & 021) has been filed in the office of the City Clerk of Morgan Hill; and

WHEREAS, said territory is uninhabited and all owners of land included in the proposal consent to this annexation;

WHEREAS, Section 56757 of the California Government Code states that the Local Agency Formation Commission shall not review an annexation proposal to any City in Santa Clara County of unincorporated territory which is within the urban service area of the city if initiated by resolution of the legislative body and therefore the City Council of the City of Morgan Hill is now the conducting authority for said annexation; and

WHEREAS, Government Code Section 56663(a) provides that if a petition for annexation is signed by all owners of land within the affected territory, the City Council may approve or disapprove the annexation without public hearing; and

WHEREAS, evidence was presented to the City Council;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL AS FOLLOWS:

SECTION 1: That the City Council is the conducting authority pursuant to Section 56757 of the Government Code for the annexation of property designated “MADRONE ANNEXATION No. 11,” more particularly described in Exhibits “A and B”;

SECTION 2: The territory described is hereby withdrawn from the South Santa Clara County Fire Protection District in accordance with Section 13952 of the California Health and Safety Code (APNs 725-01-012, 013, & 021)

SECTION 3: The following findings are made by the City Council of the City of Morgan Hill:

- a. That said territory is uninhabited and comprises approximately 27.7 acres.
- b. That the annexation is consistent with the orderly annexation of territory within the City's urban service area and is consistent with the City policy of annexing when all city services can be provided.
- c. An Environmental Impact Report has been certified by the Morgan Hill Unified School District for parcels 725-01-012 & 013.
- d. A negative declaration has been approved for parcel 725-01-021.
- e. The City Council on December 17, 2003 enacted Ordinance No. 1645 pre-zoning parcel number 725-01-012 & 013 with a Public Facilities zoning designation and pre-zoning parcel number 725-01-021 with an R1-7,000 zoning designation.
- f. That the territory is within the City's Urban Service Area as adopted by the Local Agency Formation Commission of Santa Clara County.
- g. That the County Surveyor has determined the boundaries of the proposed annexation to be definite and certain, and in compliance with the Commission's road annexation policies. The City shall reimburse the County for the actual cost incurred by the County Surveyor in making this determination.
- h. That the proposed annexation does not create islands or areas in which it would be difficult to provide municipal services.
- i. That the proposed annexation does not split lines of assessment or ownership.
- j. That the proposed annexation is consistent with the City's General Plan.
- k. That the territory to be annexed is contiguous to existing City limits.
- l. That the City has complied with all conditions imposed by the commission for inclusion of territory in the City's urban service area.

SECTION 4: The Council finds that all property owners and registered voters have been provided written notice of this proceeding and no opposition has been received.

SECTION 5: Said annexation is hereby ordered without any further protest proceedings pursuant to Sections 56663(c) and 56663(d) of the California Government Code.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory annexed will be detached from the unincorporated portion of the County of Santa Clara.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory annexed will be taxed on the regular county assessment roll, including taxes for existing bonded indebtedness.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 7th Day of July, 2004 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

☪ CERTIFICATION ☪

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 7, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL & MORGAN HILL FINANCING AUTHORITY STAFF REPORT

Agenda Item #26

Prepared By:

Finance Director

Submitted By:

City Manager

MEETING DATE: July 7, 2004

ISSUANCE OF BONDS FOR MORGAN HILL POLICE FACILITY

RECOMMENDED ACTIONS:

1. Open and close the public hearing
2. As City Council, adopt Resolution making finding of significant public benefit
3. As City Council, adopt Resolution approving certain documents in connection with the issuance Morgan Hill Financing Authority lease revenue bonds
4. As Authority Commission of the Financing Authority, adopt Resolution authorizing the sale, issuance, and delivery of lease revenue bonds and approving certain documents

EXECUTIVE SUMMARY: The Financing Authority plans to issue lease revenue bonds in order to raise the funds necessary to allow the City to purchase the new police facility from the current owners. The purchase would take place at the same time that the bond sale is consummated and escrow is completed. The Police Department recently relocated to the new facility under the terms of the existing lease. The purchase will not take place until after the construction project has been completed and the City Council has accepted the improvements. Staff expects for this to happen shortly.

Under the proposed financing structure, the Financing Authority will lease the project from the City and the City will sublease the project from the Authority. The City will covenant that it will make base rental payments to the Authority under the sublease. Pursuant to an assignment agreement between the Financing Authority and Trustee, the Authority will assign to the Trustee its right to receive the base rental payments to secure debt service payments to bondholders.

This bond issue has received bond ratings of A+ from Standard and Poor's and A2 from Moody's Investors Service, which should allow the City to obtain a relatively low interest rate on the bonds.

FISCAL IMPACT: The bond issue will not exceed \$7,750,000 and the interest rate will not exceed 6%, under the Financing Authority Resolution. The bond issue will be sold competitively through the services of the City's Financial Advisor, RBC Dain Rauscher, in order to get the best deal for the City. It is estimated that the annual debt service will be approximately \$430,000, half of which will be paid from the General Fund and half of which will be paid from police impact fees. The 2004/05 debt service payments were included in the adopted 2004/05 Budget.

SUMMARY OF ATTACHMENTS

	<u>Attachment</u>
1) City Council Resolution making a finding of significant public benefit	A
2) City Council Resolution approving certain bond related documents	B
3) Financing Authority Resolution authorizing the sale, issuance, and delivery of bonds and approving certain documents	C
4) Lease Agreement between City and Financing Authority	D
5) Sublease Agreement between Financing Authority and City	E
6) Indenture of Trust between Financing Authority and BNY Western Trust Company	F
7) Preliminary Official Statement	G
8) Assignment Agreement between Financing Authority and BNY Western Trust Company	H
9) Official Notice inviting bids for purchase of bonds	I
10) Continuing Disclosure Agreement	J

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL MAKING A FINDING OF SIGNIFICANT PUBLIC BENEFIT IN CONNECTION WITH THE SALE AND ISSUANCE OF MORGAN HILL FINANCING AUTHORITY LEASE REVENUE BONDS (POLICE FACILITY) SERIES 2004

RECITALS:

WHEREAS, the Morgan Hill Financing Authority (the “Authority”) is a joint powers authority duly organized and existing under and pursuant to Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the California Government Code and that certain Joint Exercise of Powers Agreement, dated as of November 5, 2003, by and between the City of Morgan Hill (the “City”) and the Morgan Hill Redevelopment Agency, and is authorized pursuant to Article 4 of the Act to issue bonds for the purpose of financing public capital improvements; and

WHEREAS, the Authority has proposed to sell and issue Morgan Hill Financing Authority Lease Revenue Bonds (Police Facility) Series 2004 (the “Bonds”); and

WHEREAS, proceeds of the Bonds will be used to finance a portion of the acquisition and improvement costs of the new City police headquarters and related facilities; and

WHEREAS, pursuant to Section 6586.5 of the California Government Code, after notice duly published in accordance with law, the City Council of the City (the “City Council”) held a public hearing on this date with respect to the proposed financing;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Recitals. The above recitals, and each of them, are true and correct.

Section 2. Approval of Financing. The City Council hereby finds that the Authority’s issuance of the Bonds to finance a portion of the acquisition and improvement costs of the new City police headquarters and related facilities will result in significant public benefits to the constituents of the City, including more efficient delivery of City services to its residential and commercial development. The City Council hereby approves the issuance of the Authority Bonds.

Section 3. Other Acts. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to effectuate the purposes of this Resolution and any such actions previously taken by such officers are hereby ratified and confirmed.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 7th Day of July, 2004 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 7, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AS TO FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION WITH THE SALE AND ISSUANCE OF MORGAN HILL FINANCING AUTHORITY LEASE REVENUE BONDS (POLICE FACILITY) SERIES 2004 AND AUTHORIZING CERTAIN OTHER MATTERS RELATING THERETO

RECITALS:

WHEREAS, the Morgan Hill Financing Authority (the “Authority”) proposes to sell its Lease Revenue Bonds (Police Facility), Series 2004 (the “Bonds”); and

WHEREAS, proceeds of the Bonds will be used to finance a portion of the acquisition and improvement costs of the new police headquarters and related facilities (the “Project”) in the City of Morgan Hill (the “City”); and

WHEREAS, in connection with the issuance of Bonds, it is proposed that the Authority will enter into a Lease, under which the Authority will lease the Project from the City, and a Sublease, under which the City will sublease the Project from the Authority and make rental payments, calculated to be sufficient allow the Authority to pay debt service on the Bonds; and

WHEREAS, the City Council has made a finding, after duly noticed public hearing pursuant to Section 6586.5 of the Government Code, that the issuance of the Bonds will result in significant public benefit;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Recitals. The above recitals, and each of them, are true and correct.

Section 2. Lease. The Lease (the “Lease”), proposed to be entered into by and between the City and the Authority, in the form presented at this meeting and on file in the office of the City Clerk, is hereby approved. Each of the Mayor (or in his absence, the Mayor Pro Temp) and the City Manager of the City (each, and “Authorized Officer”), acting singly, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Lease in substantially said form, with such changes therein as the Authorized Officer executing the same may approve (such approval to be conclusively evidenced by such Authorized Officer’s execution and delivery thereof).

Section 3. Sublease. The Sublease (the “Sublease”), proposed to be entered into by and between the Authority and the City, in the form presented at this meeting and on file in the office of the City Clerk, is hereby approved. Each Authorized Officer, acting singly, is hereby

authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Sublease in substantially said form, with such changes therein as the Authorized Officer executing the same may approve (such approval to be conclusively evidenced by such Authorized Officer's execution and delivery thereof).

Section 4. Continuing Disclosure Agreement. The Continuing Disclosure Agreement (the "Continuing Disclosure Agreement"), proposed to be entered into by and between the City and BNY Western Trust Company, as the Trustee and Dissemination Agent, in the form presented at this meeting and on file in the office of the City Clerk, is hereby approved. Each Authorized Officer, acting singly, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Continuing Disclosure Agreement in substantially said form, with such changes therein as the Authorized Officer executing the same may approve (such approval to be conclusively evidenced by such Authorized Officer's execution and delivery thereof).

Section 5. Preliminary Official Statement. The Preliminary Official Statement relating to the Bonds (the "Preliminary Official Statement"), in the form presented at this meeting and on file with the City Clerk, is hereby approved. Each Authorized Officer, acting singly, is hereby authorized and directed, for and in the name and on behalf of the City, to cause the Preliminary Official Statement in substantially said form, with such additions or changes therein as such Authorized Officer may approve, to be deemed final for the purposes of Rule 15c2-12 of the Securities and Exchange Act of 1934. The distribution of the Preliminary Official Statement to prospective bidders of the Bonds pursuant to the Authority's resolution approving the issuance of the Bonds is hereby approved.

Section 6. Official Statement. Each Authorized Officer, acting singly, is hereby authorized and directed, for and in the name and on behalf of the City, to cause the Preliminary Official Statement to be brought into the form of a final Official Statement (the "Official Statement"), and to execute the same for and in the name and on behalf of the City, with such additions or changes therein as such Authorized Officer may approve (such approval to be conclusively evidenced by such Authorized Officer's execution and delivery thereof).

Section 7. Other Acts. The Authorized Officers and all other officers of the City are hereby authorized and directed, jointly and severally, to do any and all things, to execute and deliver any and all documents that they may deem necessary or advisable in order to consummate the sale, issuance and delivery of the Bonds, or otherwise to effectuate the purposes of this Resolution, the Lease, the Sublease, the Official Statement and the Continuing Disclosure Agreement and any such actions previously taken by such officers are hereby ratified and confirmed.

Section 8. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 7th Day of July, 2004 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 7, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. MHFA-__

**A RESOLUTION OF THE MORGAN HILL FINANCING AUTHORITY
ACKNOWLEDGING A FINDING OF SIGNIFICANT PUBLIC BENEFIT
IN CONNECTION WITH THE ISSUANCE OF MORGAN HILL
FINANCING AUTHORITY LEASE REVENUE BONDS (POLICE
FACILITY), SERIES 2004; AUTHORIZING THE SALE, ISSUANCE AND
DELIVERY OF SAID BONDS; APPROVING AS TO FORM AND
AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN
DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING
CERTAIN OTHER MATTERS RELATING THERETO**

RECITALS:

WHEREAS, the Morgan Hill Financing Authority (the “Authority”) is a joint powers authority duly organized and existing under and pursuant to Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the California Government Code (the “Act”) and that certain Joint Exercise of Powers Agreement, dated as of November 5, 2003, by and between the City of Morgan Hill (the “City”) and the Morgan Hill Redevelopment Agency, and is authorized pursuant to Article 4 of the Act to issue bonds for the purpose of financing public capital improvements; and

WHEREAS, the Authority proposes to sell Morgan Hill Financing Authority Lease Revenue Bonds (Police Facility), Series 2004 (the “Bonds”) to be issued and secured pursuant to an Indenture (as defined herein); and

WHEREAS, proceeds of the Bonds will be used to finance a portion of the acquisition and improvement costs of the new City police headquarters and related facilities (the “Project”); and

WHEREAS, in connection with the issuance of Bonds, it is proposed that the Authority will enter into a Lease, under which the Authority will lease the Project from the City, and a Sublease, under which the City will sublease the Project from the Authority and make rental payments, calculated to be sufficient allow the Authority to pay debt service on the Bonds; and

WHEREAS, the City Council of the City (the “City Council”) has made a finding, after duly noticed public hearing pursuant to Section 6586.5 of the Government Code, that the issuance of the Bonds will result in significant public benefit;

NOW, THEREFORE, THE MORGAN HILL FINANCING AUTHORITY DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Recitals. The above recitals, and each of them, are true and correct.

Section 2. Acknowledgement of City Council Findings and Authorization to Issue Bonds. The Authority hereby acknowledges and concurs with the City Council’s finding of

significant public benefit and hereby approves and authorizes the issuance and sale of the Bonds, subject to the parameters set forth below.

Section 3. Indenture. The Indenture of Trust (the “Indenture”), proposed to be entered into by and between the Authority and the Trustee (defined in Section 4 below), in the form presented at this meeting and on file with the Secretary of the Authority (the “Authority Secretary”), is hereby approved. Subject to Section 5 below, each of the President, the Vice President, the Chief Administrative Officer and the Treasurer, any deputy of such officers, and any member of the Authority Commission (each, an “Authorized Officer”), acting singly, is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Indenture in substantially said form, with such additions or changes as the Authorized Officer executing the same may approve (such approval to be conclusively evidenced by such Authorized Officer’s execution and delivery thereof).

Section 4. Appointment of Trustee. The appointment of BNY Western Trust Company as trustee (the “Trustee”) under the Indenture is hereby approved.

Section 5. Terms of Sale of Bonds. The authorization set forth in this Resolution regarding the issuance and sale of Bonds are subject to the following parameters: (i) the aggregate principal amount of the Bonds shall not exceed \$7,750,000; (ii) interest rate on the Bonds shall not exceed 6 percent per annum; and (iii) the underwriter’s discount with respect to the Bonds shall not exceed 2 percent of the principal amount thereof. In addition, the authorization and powers delegated to the Authorized Officers by Section 9 shall be valid for a period of 180 days from the date of adoption of this Resolution.

Section 6. Lease. The Lease (the “Lease”), proposed to be entered into by and between the City and the Authority, in the form presented at this meeting and on file in the office of the Secretary of the Authority, is hereby approved. Each Authorized Officer, acting singly, is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Lease in substantially said form, with such changes therein as the Authorized Officer executing the same may approve (such approval to be conclusively evidenced by such Authorized Officer’s execution and delivery thereof).

Section 7. Sublease. The Sublease (the “Sublease”), proposed to be entered into by and between the Authority and the City, in the form presented at this meeting and on file in the office of the Secretary of the Authority, is hereby approved. Each Authorized Officer, acting singly, is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Sublease in substantially said form, with such changes therein as the Authorized Officer executing the same may approve (such approval to be conclusively evidenced by such Authorized Officer’s execution and delivery thereof).

Section 8. Assignment Agreement. The Assignment Agreement (the “Assignment Agreement”), proposed to be entered into by and between the Authority and the Trustee, in the form presented at this meeting and on file in the office of the Secretary of the Authority, is hereby approved. Each Authorized Officer, acting singly, is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Assignment Agreement in substantially said form, with such changes therein as the Authorized Officer

executing the same may approve (such approval to be conclusively evidenced by such Authorized Officer's execution and delivery thereof).

Section 9. Notice Inviting Bids. The Notice Inviting Bids, in the form presented at this meeting and on file in the office and on file with the Secretary of the Authority, is hereby approved. Each Authorized Officer, acting singly, is hereby authorized, for and in the name of the Authority, to use the Notice Inviting Bids, with such changes, insertions and omissions as such Authorized Officer may require or approve, to solicit from underwriters proposals to purchase the Bonds. Subject to the parameters set forth in Section 5 hereof, the terms and conditions of the offering and sale of the Bonds shall be as specified in the Notice Inviting Bids. Sealed bids for the purchase of the Bonds shall be received by the Authority at the time and place set forth in the Notice Inviting Bids. The Authorized Officers are each hereby authorized and directed, for and in the name of the City, to accept the lowest bid for the Bonds, or to reject all bids therefore, in accordance with the Notice Inviting Bids.

Section 10. Preliminary Official Statement. The Preliminary Official Statement relating to the Bonds (the "Preliminary Official Statement"), in the form presented at this meeting and on file with the Authority Secretary, is hereby approved. Each Authorized Officer, acting singly, is hereby authorized and directed, for and in the name and on behalf of the Authority, to cause the Preliminary Official Statement in substantially said form, with such additions or changes therein as such Authorized Officer may approve, to be deemed final for the purposes of Rule 15c2-12 of the Securities and Exchange Act of 1934. The Authorized Officers are hereby authorized and directed to furnish, or cause to be furnished, to prospective bidders for the Bonds, a reasonable number of copies of the Preliminary Official Statement.

Section 11. Official Statement. Each Authorized Officer, acting singly, is hereby authorized and directed, for and in the name and on behalf of the Authority, to cause the Preliminary Official Statement to be brought into the form of a final Official Statement (the "Official Statement"), and to execute the same for and in the name and on behalf of the Authority, with such additions or changes therein as such Authorized Officer may approve (such approval to be conclusively evidenced by such Authorized Officer's execution and delivery thereof). The Authorized Officers are each hereby authorized and directed to furnish or cause to be furnished, to the purchaser of the Bonds, as many copies of the Official Statement as said purchaser shall require, provided that no charge shall be imposed on the first 75 copies of the Official Statement.

Section 12. Other Acts. The Authorized Officers and all other officers of the Authority are hereby authorized and directed, jointly and severally, to do any and all things, to execute and deliver any and all documents that they may deem necessary or advisable in order to consummate the sale, issuance and delivery of the Bonds, or otherwise to effectuate the purposes of this Resolution, the Indenture, the Lease, the Sublease, the Notice Inviting Bids and the Official Statement and any such actions previously taken by such officers are hereby ratified and confirmed.

Section 13. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the Morgan Hill Financing Authority Commission at a Special Meeting held on the 7th Day of July, 2004 by the following vote.

AYES: **COMMISSION MEMBERS:**
NOES: **COMMISSION MEMBERS:**
ABSTAIN: **COMMISSION MEMBERS:**
ABSENT: **COMMISSION MEMBERS:**

ATTEST:

APPROVED:

Irma Torrez, Commission Secretary

Dennis Kennedy, Commission President

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the Morgan Hill Financing Authority Commission at a Special Meeting held on July 7, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

LEASE AGREEMENT

by and between

the

CITY OF MORGAN HILL

and the

MORGAN HILL FINANCING AUTHORITY

Dated as of July 1, 2004

LEASE AGREEMENT

This Lease Agreement, dated as of July 1, 2004 (this "Lease"), is made by and between the CITY OF MORGAN HILL, a municipal corporation duly organized and existing under the laws of the State of California (the "City"), as lessor, and the MORGAN HILL FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California (the "Authority"), as lessee.

RECITALS:

A. The Authority is a joint powers authority duly organized and existing under and pursuant to that certain Joint Exercise of Powers Agreement, dated as of November 5, 2003, by and between the City of Morgan Hill and the Morgan Hill Redevelopment Agency, and under the provisions of Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code of the State of California, and is authorized pursuant to Article 4 of the Act to borrow money for the purpose of financing public capital improvements.

B. The Authority proposes to issue its Lease Revenue Bonds (Police Facility), Series 2004 (the "Bonds") pursuant to an Indenture, dated as of even date herewith (the "Indenture"), by and between the Authority and BNY Western Trust Company, as trustee.

C. The proceeds of Bonds will be applied to finance a portion of the acquisition and improvement costs of certain real property which the City intends to use as the new police headquarters and related facilities (such real property, including land and improvements thereon, being referred to below as the "Project").

D. In connection with above-described financing, the City and the Authority desire to enter into this Lease, whereby the Authority will lease the Project from the City.

E. Pursuant to a Sublease Agreement, dated as of even date herewith, by and between the City and the Authority, the Authority will sublease the Project to the City.

F. All acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Lease.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

SECTION 1. DEFINITIONS.

Terms used and not otherwise defined herein but which are defined in the Indenture shall have the meanings ascribed to them in the Indenture. Unless the context

otherwise requires, the terms defined in this Section shall, for all purposes of this Lease, have the meanings specified in this Section (the following definitions to be equally applicable to both the singular and plural forms of such defined terms):

“Bonds” means the Authority’s Lease Revenue Bonds (Police Facility), Series 2004.

“Commencement Date” means the Closing Date with respect to the Bonds.

“Indenture” means the Indenture, dated as of even date herewith, by and between the Authority and the Trustee, relating to the Bonds, as the same may be amended, supplemented or otherwise modified from time to time.

“Lease” means this Lease Agreement, as the same may be amended or modified from time to time according to the terms hereof.

“Lease Term” has the meaning ascribed to such term in the Sublease.

“Project” means, collectively, the Site and the police facility on the Site, and all other improvements constructed thereon.

“Site” means that certain real property more particularly described in Exhibit A attached hereto and is hereby made a part hereof.

“Sublease” means the Sublease Agreement, dated as of even date herewith, with respect to the Project, by and between the Authority, as lessor, and the City, as lessee, and as the same may be amended, supplemented or otherwise modified from time to time.

“Trustee” means BNY Western Trust Company, its successors and assigns, acting as the Trustee under the Indenture.

SECTION 2. TERM.

(a) The City hereby leases the Project to the Authority and the Authority hereby hires the Project from the City, on the terms and conditions hereinafter set forth.

(b) The term of this Lease shall commence on the Commencement Date and shall end on the last day of the Lease Term under the Sublease.

SECTION 3. RENTAL.

The Authority agrees to pay to the City, on the Closing Date, the sum of \$1.00, as advance rental for the use and right to possession of the Project for the term of this Lease.

SECTION 4. TITLE.

In accordance with the Sublease, the City shall obtain a CLTA (or, at the City’s sole discretion, an ALTA) title insurance policy at the time of and dated as of the Closing Date in an amount not less than the aggregate principal amount of the Bonds, payable to the Trustee,

insuring the respective interests of the City and the Authority in the Project, and insuring the validity of this Lease and the Sublease, issued by a title insurance company qualified to do business in the State of California and acceptable to the Trustee. To the extent permitted under the Indenture, the costs of obtaining such title insurance policy or policies may be paid out of the sale proceeds of the Bonds.

SECTION 5. DEFAULT.

If –

(a) the Authority shall fail to keep, observe or perform any term, covenant or condition contained herein to be kept or performed by the Authority, or

(b) (1) the Authority's interest in this Lease or any part thereof is assigned or transferred without the written consent of the City, either voluntarily or by operation of law or otherwise, except as provided in Section 9 hereof, or (2) any proceeding under the United States Bankruptcy Code or any federal or state bankruptcy, insolvency or similar law or any law providing for the appointment of a receiver, liquidator, trustee or similar official of the Authority or of all or substantially all of its assets is instituted by or with the consent of the Authority, or is instituted without its consent and is not permanently stayed or dismissed within 30 days, or (3) the Authority offers to the Authority's creditors to effect a composition or extension of time to pay the Authority's debts, or asks, seeks or prays for a reorganization or to effect a plan or reorganization or for readjustment of the Authority's debts, or (4) the Authority shall make a general assignment or any assignment for the benefit of the Authority's creditors,

then the Authority shall be deemed to be in default hereunder and it shall be lawful for the City to exercise any and all rights and remedies available pursuant to law; provided, however, that, so long as any Bonds remain outstanding, the City shall have no power to terminate this Lease by reason of any default on the part of the Authority.

Neither the City nor the Authority shall in any event be in default in the performance of any of its obligations hereunder or imposed by law unless and until the City or the Authority (as the case may be) shall have failed to perform such obligation within 30 days after notice by the Authority or the City (as the case may be) to the nonperforming party properly specifying wherein such party has failed to perform any such obligation.

SECTION 6. EMINENT DOMAIN.

If the whole or any part of the Project shall be taken under the power of eminent domain, the interest of the Authority shall be recognized and any condemnation award shall be applied as provided in Section 9 of the Sublease.

SECTION 7. RIGHT OF ENTRY.

The City and its assignees shall have the right to enter any of the Project during reasonable business hours (and in emergencies at all times) (a) to inspect the same, (b) for any purpose connected with the City's or the Authority's rights or obligations under this Lease and (c) for all other lawful purposes.

SECTION 8. QUIET ENJOYMENT BY THE AUTHORITY.

The Authority shall at all times during the term of this Lease peaceably and quietly have, hold and enjoy the real property leased hereunder without suit, trouble or hindrance from the City, subject to the rights granted to the City under the Sublease, and subject to the Authority's compliance with the terms and provisions hereof.

SECTION 9. ASSIGNMENTS AND SUBLEASES.

Unless the City shall be in default under this Lease, the Authority may not, without the written consent of the City, assign its rights hereunder or sublet the Project, except as provided in the Sublease.

SECTION 10. WAIVER OF PERSONAL LIABILITY.

All liabilities hereunder on the part of the Authority shall be solely liabilities of the Authority as a separate legal entity, and no member, officer or employee of the Authority shall at any time or under any circumstances be individually or personally liable hereunder for anything done or omitted to be done by the Authority hereunder.

SECTION 11. TAXES.

The City shall be responsible for the payment of any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Project.

SECTION 12. LAW GOVERNING.

This Lease shall be governed exclusively by the provisions hereof and by the laws of the State of California.

SECTION 13. NOTICES.

All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or by facsimile transmission or if mailed by United States registered or certified mail, return receipt requested, postage pre-paid, and, if to the City, addressed to the City Manager, City of Morgan Hill, 17555 Peak Avenue, Morgan Hill, California 95037 or if to the Authority, addressed to the Chief Administrative Officer, Morgan Hill Financing Authority, 17555 Peak Avenue, Morgan Hill, California 95037, or to such other addresses as the respective parties may from time to time designate by notice in writing.

SECTION 14. VALIDITY AND SEVERABILITY.

If for any reason this Lease shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the City or by the Authority, or if for any reason it is held by such a court that any of the covenants and conditions of the Authority hereunder is unenforceable

for the full term hereof, then and in such event this Lease is and shall be deemed to be a lease from year to year and all of the rental and other terms, provisions and conditions of this Lease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

SECTION 15. PURPOSE OF LEASE.

The Authority covenants that during the term of this Lease, except to the extent that other uses may be permitted under the Sublease, it will use, or cause the use of, the Site to be consistent with the descriptions set the Recitals of this Lease or related public purposes.

SECTION 16. WAIVER OF DEFAULT.

Failure of the City to take advantage of any default on the part of the Authority shall not be, or be construed as, a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this Lease be construed to waive or to lessen the right of the City to insist upon performance by the Authority of any term, covenant or condition hereof, or to exercise any rights given the City on account of such default. A waiver of a particular default shall not be deemed to be a waiver of the same or any subsequent default. The acceptance of rent hereunder shall not be, nor be construed to be, a waiver of any term, covenant or condition of this Lease.

SECTION 17. SECTION HEADINGS.

All section headings contained are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

SECTION 18. AMENDMENTS.

This Lease may not be amended unless such amendment is agreed upon in writing by the parties hereby; provided that, that no such amendment shall materially affect the interests and rights of the Trustee or the Owners of the Bonds under the Indenture or the Sublease unless (i) there shall have been delivered to the Trustee an opinion of Bond Counsel that such amendment will not adversely affect the tax-exempt status of the Bonds, or (ii) the Trustee shall have obtained written consent of the affected Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding to such amendment.

SECTION 19. EXECUTION; RECORDATION.

(a) This Lease may be executed in any number of counterparts, each of which shall be deemed to an original, but all together shall constitute but one and the same instrument.

(b) This Lease shall not be recorded, but the parties shall, at the commencement of the term hereof, execute and cause to be recorded in the office of the County Recorder of the County of Santa Clara, California, a “short form” or Memorandum of Lease.

IN WITNESS WHEREOF, the City and the Authority have caused this Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

CITY OF MORGAN HILL

By _____
City Manager

MORGAN HILL FINANCING AUTHORITY

By _____
Chief Administrative Officer

EXHIBIT A

Description of the Site

That certain real property situated in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

SUBLEASE AGREEMENT

by and between

the

MORGAN HILL FINANCING AUTHORITY

and the

CITY OF MORGAN HILL

Dated as of July 1, 2004

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SUBLEASE AGREEMENT

This Sublease Agreement, dated as of July 1, 2004 (this "Sublease"), is made by and between the MORGAN HILL FINANCING AUTHORITY, a joint powers authority duly organized and existing pursuant to the laws of the State of California (the "Authority"), as lessor, and the CITY OF MORGAN HILL, a municipal corporation duly organized and existing under the laws of the State of California (the "City"), as lessee.

RECITALS:

A. The Authority has issued \$_____ in aggregate principal amount of its Lease Revenue Bonds (Police Facility) Series 2004 (the "Bonds") pursuant to the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4, Chapter 5, Division 7, Title 1 (commencing with Section 6584) of the California Government Code, as amended (the "Act") and an Indenture, dated as of even date herewith (the "Indenture"), by and between the Authority and BNY Western Trust Company, as trustee.

B. The Bonds have been issued to provide to finance a portion of the acquisition and improvement costs of the new City police headquarters and related facilities, which constitute "public capital improvements" as defined in the Act.

C. Pursuant to a Lease Agreement, dated as of even date herewith, the Authority has leased the Project (as defined below) from the City.

D. The Authority desires to sublease the Project to the City and the City desires to hire the Project from the Authority, pursuant to this Sublease.

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

SECTION 1. DEFINITIONS

Terms used and not otherwise defined herein but which are defined in the Indenture shall have the meanings ascribed to them in the Indenture. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Sublease, have the meanings specified in this Section (the following definitions to be equally applicable to both the singular and plural forms of any of such defined terms):

"Base Rental" has the meaning assigned to that term in Section 3(a) hereof.

"Bonds" means the Authority's Lease Revenue Bonds (Police Facility), Series 2004.

"Code" means the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

“Commencement Date” means the later of (a) the dated date of this Sublease, or (b) the date a “short form” or Memorandum of Sublease is recorded in the office of the County Recorder of the County of Santa Clara, California, in accordance with Section 24 hereof.

“Expiration Date” means July 15, 2034.

“Indenture” means the Indenture, dated as of even date herewith, by and between the Trustee and the Authority relating to the Bonds.

“Net Proceeds” means any insurance or condemnation proceeds, paid with respect to the Project remaining after payment therefrom of all expenses in the collection thereof.

“Payment Date” means, with respect to a Base Rental payment, the date listed as its related “Payment Date” in Exhibit B of this Sublease.

“Permitted Encumbrances” means (a) liens for general *ad valorem* taxes and assessments, if any, not then delinquent, or which the City may, pursuant to this Sublease, permit to remain unpaid; (b) liens created pursuant to the Lease or this Sublease; (c) any right or claim of any mechanic, laborer, materialman, supplier or vendor filed or perfected in the manner prescribed by law after the Commencement Date; (d) easements, right of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the Commencement Date; and (e) easements, right of way, mineral rights, drilling rights and other reservations established following the Commencement Date and to which the Authority and the City consent in writing.

“Project” means, collectively, the Site and the police facility and all other improvements thereon.

“Site” means that certain real property more particularly described in Exhibit A attached hereto and is hereby made a part hereof.

“Sublease” means this Sublease Agreement, as the same may be amended and supplemented from time to time in accordance with the terms hereof.

“Trustee” means BNY Western Trust Company, its successors and assigns, acting as the Trustee under the Indenture.

SECTION 2. TERM

(a) The Authority hereby subleases to the City and the City hereby hires from the Authority, on the terms and conditions hereinafter set forth, the Project.

(b) The term of this Sublease shall commence on the Commencement Date, and shall end on the earlier of (i) the Expiration Date; or (ii) the date the last Base Rental payment is made under the provisions hereof. Throughout the term of this Sublease, fee title to the Project shall remain in the City.

SECTION 3. RENTAL

Subject to the provisions of Sections 8(d) and 17 hereof, the City agrees to pay to the Authority, its successors or assigns, as rental for the use and possession of the Project, the following amounts at the following times:

(a) Base Rental. The City shall pay as “Base Rental” to the Authority or to the Trustee, as hereinafter provided, semiannually, the rental payments in accordance with the Base Rental payment Schedule attached hereto as Exhibit B, less any amounts credited against Base Rental pursuant to Section 4.02(d) of the Indenture. Each Base Rental payment shall be payable in arrears five (5) Business Days before its Payment Date, and shall be made in consideration for the City’s use and possession of the Project for the six-month period preceding the Payment Date of such payment.

(b) Additional Rental. The City shall also pay, as “Additional Rental” hereunder, in addition to the Base Rental, to the Authority or to the Trustee, as hereinafter provided, such amounts in each year as shall be required for the payment of all costs and expenses (not otherwise paid for or provided for out of the proceeds of sale of the Bonds) incurred by the Authority or the Trustee in connection with the execution, performance or enforcement of this Sublease or the assignment hereof, the Indenture, or the Authority’s or the Trustee’s respective interests in the Project, including, but not limited to, all fees, costs and expenses, all administrative costs of the Authority relating to the Project (including, without limiting the generality of the foregoing, salaries and wages of employees, overhead, insurance premiums, taxes and assessments (if any), expenses, compensation and indemnification of the Trustee payable by the Authority under the Indenture), fees of auditors, accountants, attorneys or engineers, and all other reasonable and necessary administrative costs of the Authority or charges required to be paid by it to comply with the terms of the Bonds or of the Indenture.

The Authority or the Trustee shall bill such Additional Rental to the City from time to time. The City shall pay amounts so billed within thirty (30) days after receipt of the bill by the City.

Such payments of Base Rental and Additional Rental for each rental payment period shall constitute the total rental for said rental payment period, and shall be paid by the City in each rental payment period for and in consideration of the right of the use and possession of, and the continued quiet use and enjoyment of, the Project during each such period for which said rental is to be paid. The parties hereto have agreed and determined that such total rental represents the fair rental value of the Project for each such period. In making such determination, consideration has been given to other obligations of the parties under this Sublease, the uses and purposes which may be served by the Project and the benefits therefrom which will accrue to the City and the general public. The determination of fair rental value of the Project pursuant to this paragraph shall not be deemed to be controlling in connection with a determination of fair value of the Project by the parties hereto for any other purpose.

Each installment of Base Rental payable hereunder shall be paid in lawful money of the United States of America to the order of the Trustee at the corporate trust office of the Trustee in Los Angeles, California, or such other place as the Trustee shall designate.

Notwithstanding any dispute between the City and the Authority, the City shall make all rental payments when due, without deduction or offset of any kind, and shall not withhold any rental payments pending the final resolution of any such dispute. In the event of a determination that the City was not liable for said rental payments or any portion thereof, said payments or excess of payments, as the case may be, at the option of the City, shall be credited against subsequent rental payments due hereunder or be refunded at the time of such determination.

The City covenants to take such action as may be necessary to include all such rental payments due hereunder in its annual budget and to make the necessary annual appropriations for all such rental payments. The City will furnish to the Authority and the Trustee annually, on or before July 15 of each year, a certificate stating that it has complied with the covenant set forth in this paragraph. The covenants on the part of the City herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Sublease agreed to be carried out and performed by the City; provided, the obligation of the City to make Base Rental or Additional Rental payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the Bonds nor the obligation of the City to make Base Rental or Additional Rental payments constitutes an indebtedness of the City, the State or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction

SECTION 4. USE OF PROCEEDS

The parties hereto agree that the proceeds of the Bonds will be used to (i) provide financing for the acquisition and improvement costs of the Project, (ii) fund the Reserve Account, and (iii) pay the costs of issuing the Bonds and incidental and related expenses, as more fully set forth in the Indenture.

SECTION 5. MAINTENANCE, UTILITIES, TAXES AND ASSESSMENTS

During such time as the City or any assignee or sublessee thereof is in possession of the Project, all maintenance and repair, ordinary or extraordinary, of the Project shall be the responsibility of the City, and the City shall pay for or otherwise arrange for the payment of (a) all utility services supplied to the Project, (b) the cost of operation of the Project, and (c) the costs of maintenance of and repair to the Project resulting from ordinary wear and tear or want of care on the part of the City. The City shall, at the City's sole cost and expense, keep and maintain the Project clean and in a safe and good condition and repair. The Authority shall have no obligation to alter, remodel, improve, repair, decorate, or paint the Project or any part thereof, and the parties hereto affirm that the Authority has made no representations or warranties to the City respecting the condition of the Project.

The City shall comply with all statutes, ordinances, regulations, and other requirements of all governmental entities that pertain to the occupancy or use of the Project. The Authority has no responsibility or obligation whatsoever to construct any improvements, modifications or alterations to the Project.

The parties hereto contemplate that the City will use the Project for public purposes and, therefore, that the Project will be exempt from all taxes presently assessed and levied with respect to real and personal property, respectively. In the event that the use, possession or acquisition by the Authority or the City of any one of the Project is found to be subject to taxation in any form, the City will pay during the term hereof, as the same respectively become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project and any other property acquired by the City in substitution for, as a renewal or replacement of, or a modification, improvement or addition to the Project; provided, that with respect to any governmental charges or taxes that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are accrued during such time as this Sublease is in effect.

SECTION 6. CHANGES TO THE PROJECT

The City shall have the right during the term of this Sublease to acquire and construct improvements or to attach fixtures, structures or signs to the Project if the improvements, fixtures, structures or signs are necessary or beneficial for the use of the Project by the City; provided, however, that no such acquisition or construction shall result in a material reduction in the value of the Project, reduce the fair rental value thereof or substantially alter the nature of the Project.

Upon termination of this Sublease, the City may remove any fixture, structure or sign added by the City, but such removal shall be accomplished so as to leave the Project, except for ordinary wear and tear and damage by casualty, in substantially the same condition as they were in before the fixture, structure or sign was attached.

SECTION 7. TITLE INSURANCE

The City shall obtain, at its own cost and expense, a California Land Title Association insurance policy (or, at the City's sole discretion, an American Land Title Association insurance policy) at the time of and dated as of the Closing Date in an aggregate amount not less than the aggregate principal amount of the Bonds, payable to the Trustee, insuring the respective interests of the City and the Authority in the Project, and insuring the validity of this Sublease, issued by a title insurance company qualified to do business in the State of California and acceptable to the Trustee.

SECTION 8. INSURANCE

(a) Liability Insurance.

The City shall procure (or cause to be procured) and maintain (or cause to be maintained), throughout the term of this Sublease, a standard commercial general liability insurance policy or policies, naming as additional insureds the Authority, the Trustee, and their directors, officers, agents and employees, insuring against all direct or contingent loss or liability for damages for bodily injury, death or property damage occasioned by reason of the use or operation of the Project, in the form of a combined single limit policy in the minimum amount of \$10,000,000. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance carried by the City.

(b) Workers Compensation Insurance.

The City will at all times comply with the workers' compensation insurance laws of the State of California to the extent applicable to the City.

(c) Fire and Extended Coverage Insurance.

The City shall procure (or cause to be procured) and maintain (or cause to be maintained), throughout the term of this Sublease, insurance against loss or damage to any part of the Project against all perils included within the classification of fire, extended coverage, vandalism, and malicious mischief. Said fire and extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke, sprinkler damage, boiler explosion and such other hazards as are normally covered by such insurance. Such insurance, shall be in an amount equal to 100 percent of the replacement cost of the improvements on the Project. Such insurance may be maintained as part of or in conjunction with any other fire and extended coverage insurance carried or required to be carried by the City.

(d) Rental Interruption Insurance.

The City shall procure (or cause to be procured) and maintain (or cause to be maintained), throughout the term of this Sublease, rental interruption insurance to cover loss, total or partial, of the use of any part of the Project as the result of any of the hazards covered in the insurance required by subsection (c) hereof and the resulting loss of rental income to the Trustee, as assignee of the Authority, in an amount sufficient to pay the maximum remaining principal and interest portions of Base Rental due under this Sublease during a period equal to the greater of (i) 12 months, and (ii) in the event of damage or destruction to any of the Project, the period certified by the City to be reasonably required to rebuild or reconstruct the Project. The Net Proceeds of such insurance shall be paid to the Trustee for deposit in the Lease Revenue Fund and shall be credited towards the payment of Base Rental in the order in which such Base Rental payments become due and payable.

(e) Self-Insurance.

As an alternative to providing the insurance required by this Section, the City may provide a self-insurance method or plan of protection (but only from a special fund of the City or other source for which the General Fund of the City is not in any fashion obligated nor to which the City is otherwise obligated to make payments), covering one or all of the insurance coverages required to be provided by subsections (a), (b) and (c), so long as (i) such self-insurance method or plan of protection shall afford reasonable protection to the Authority and the Trustee, in light of all circumstances, giving consideration to cost, availability and similar plans or methods of protection adopted by counties in the State other than the City, (ii) the City shall have provided evidence to the Authority and the Trustee that the City has segregated amounts in a special insurance reserve meeting the requirements of this Section, and (iii) in the reasonable opinion of the City's risk manager or a reputable independent insurance consultant, such self-insurance is maintained at an actuarially sound level for the purpose of this Sublease.

(f) Net Proceeds of Insurance; Form of Policies.

The policy of insurance required by subsections (c) and (d) shall provide that all proceeds thereunder shall be payable to the Trustee pursuant to a lender's loss payable endorsement. The Net Proceeds of policies of insurance under subsection (c) hereof shall be applied as provided in Section 9. All policies of insurance required by this Sublease and any statements of self-insurance shall be in form satisfactory to the Authority. The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Sublease and shall promptly furnish or cause to be furnished evidence of such payments to the Authority and the Trustee. All such policies shall provide that the Authority and the Trustee shall be given thirty (30) days' notice of each expiration, and any intended cancellation thereof or reduction of the coverage provided thereby. The City shall deliver to the Trustee on or before each anniversary of the Closing Date a certificate that all insurance required under this Sublease is in full force and effect. In the event that the City obtains insurance through a pooled insurance program of governmental entities, an annual statement or memorandum of coverage delivered to the Authority and the Trustee will satisfy the requirements of this subsection. The Trustee and the Authority shall not be responsible for the sufficiency of any insurance herein required or payment of premium and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Trustee.

(g) Advances.

If the City shall fail to perform any of its obligations under this Section, then the Authority may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money on behalf of the City, and the City shall be obligated to repay all such advances as soon as possible.

(h) Waivers of Subrogation. Each of the parties hereby waives any and all rights to recovery against the other or against any other tenant or occupant of the Project, or against the officers, employees, agents, representatives, customers, and business visitors of such other party or of such other tenant or occupant of the Project, for loss or damage to such waiving party or its property or the property of others under its control, arising from any cause insured against under

the standard form of property damage insurance policy with all permissible extensions and endorsements covering extended perils or under any other policy of insurance carried by such waiving party in lieu thereof, to the extent such policies then in force permit such waiver.

SECTION 9. DAMAGE, DESTRUCTION AND CONDEMNATION; APPLICATION OF NET PROCEEDS

If prior to the termination of the term hereof (a) the Project is destroyed (in whole or in part) or is damaged by fire or other casualty, or (b) title to, or the temporary use of, any portion of the Project or the estate of the Authority or the City in the Project or any portion shall be taken under the exercise of the power of eminent domain by any governmental body or by any person or firm or corporation acting under governmental authority, then the Authority and the City will cause the Net Proceeds of any insurance payment (other than the Net Proceeds of rental interruption insurance which shall be applied pursuant to Section 8(d) hereof) or any condemnation award to be applied to the prompt repair, restoration, modification, improvement or replacement of the damaged, destroyed or condemned portion of the Project, and any balance of Net Proceeds remaining after such work has been completed shall be paid to the City; provided, if the proceeds of such insurance or condemnation award (together with any other money that the City in its discretion has determined to use for such purpose) are at least sufficient to redeem all of the then outstanding Bonds, then the City may elect not to replace the destroyed, damaged or condemned portion of the Project and thereupon shall cause said proceeds to be used for the prepayment of Base Rental pursuant to Section 11(a).

SECTION 10. DEFAULT

(a) If default shall be made by the City in the observance or performance of any agreement, condition, covenant or term contained herein required to be observed or performed by it (including, without limitation, the payment of any Base Rental or Additional Rental due hereunder), subject to the provisions of subsection (c) below, the Authority may at any time thereafter (with or without notice and demand and without limiting any other rights or remedies the Authority may have) recover rent and other monetary charges as they become due hereunder without terminating the City's right to possession of the Project (regardless of whether or not the City has abandoned the Project). Furthermore, upon the occurrence of such a default, the Authority shall have the right, and the City hereby irrevocably appoints the Authority as its agent and attorney-in-fact for such purpose, to attempt to relet the Project at such rent, upon such conditions and for such term, and to do all other acts to maintain or preserve the Project, including the removal of persons or property therefrom or taking possession thereof, as the Authority deems desirable or necessary. The City hereby waives any and all claims for any damages that may result to the Project upon any action taken by the Authority under this Section 10(a). No action taken by the Authority under this Section 10(a) shall be deemed to terminate the Lease and the City shall continue to remain liable for any deficiency that may arise out of such reletting, taking into account expenses incurred by the Authority due to such reletting, payable at the same time and manner as provided for Base Rental in Section 3(a).

The Authority expressly waives the right to receive any amount from the City pursuant to Section 1951.2(a)(3) of the California Civil Code.

Each and all of the remedies given to the Authority hereunder or by any law now existing or hereafter enacted are cumulative and the exercise of any one remedy shall not impair the right of the Authority to any or all other remedies.

(b) In addition to any default resulting from breach by the City of any agreement, condition, covenant or term hereof, if –

(i) the City’s interest herein or any part thereof is assigned or transferred, either voluntarily or by operation of law, except as provided in Section 16; or

(ii) the City shall file any petition or institute any proceedings under any act or acts, state or federal, dealing with or relating to the subject of bankruptcy or insolvency or under any amendment of such act or acts, either as a bankrupt or as an insolvent or as a debtor or in any similar capacity, wherein or whereby the City asks or seeks or prays to be adjudicated a bankrupt, or is to be discharged from any or all of its debts or obligations, or offers to its creditors to effect a composition or extension of time to pay its debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization or for a readjustment of its debts or for any other similar relief, or if the City shall make a general or any assignment for the benefit of its creditors; or

(iii) the City shall abandon the Project or any portion thereof,

then in each and every such case the City shall be deemed to be in default hereunder.

(c) Neither the Authority nor the City shall be in default in the performance of any of its obligations hereunder (except for the obligation of the City to pay Base Rental when due pursuant to Section 3(a)) unless and until it shall have failed to perform such obligation within thirty (30) days after notice by the Authority or the City, as the case may be, to the other party properly specifying wherein it has failed to perform such obligation.

SECTION 11. PREPAYMENT AND CREDITS

(a) The City may prepay, from Net Proceeds of insurance or a condemnation award received by it pursuant to Section 9, the principal components of Base Rental then unpaid, in whole on any date, at a prepayment price equal to the sum of the principal components prepaid plus accrued interest thereon to the date of prepayment. In such event, the Bonds shall be redeemed pursuant to Section 2.03(a) of the Indenture.

(b) The City may, at its option, prepay from any source of available moneys, Base Rental then unpaid, in whole or in part, for the redemption of Bonds, which redemption date(s) shall be on or after July 15, 20___. In such event, the Bonds shall be redeemed pursuant to Section 2.03(b) of the Indenture. A prepayment under this Section 11(b) shall be deemed made upon the occurrence of either of the following:

(i) The City shall have deposited with the Trustee an amount equal to the sum of (A) the principal components of Base Rental being so prepaid, plus (B) the interest components with respect thereto accrued to the related redemption

date(s) of the Bonds, plus (C) a premium in an amount equal to the redemption premium applicable to the Bonds being so redeemed; or

(ii) There shall have been deposited, on behalf of the Authority, with the Trustee or another fiduciary, Federal Securities in a sufficient amount to satisfy the requirements of Section 10.03(b) of the Indenture to discharge the Bonds to be redeemed in connection with such prepayment.

Except in the case of a prepayment of Base Rental to redeem all of the then Outstanding Bonds, a prepayment of principal components of Base Rental pursuant to this Section 11(b) shall (1) apply only to Base Rental previously unpaid and not yet due, and (2) be applied to reduce Base Rental so that, after such prepayment (and the related redemption of Bonds), (A) each annual installment of principal components of Base Rental due hereunder shall be an integral multiple of \$5,000 and (B) the principal components of Base Rental due in any year shall correspond with the principal amount of Bonds due and payable in such year.

In the event of a partial prepayment of Base Rental under this Section 11, the City shall provide the Trustee with an amended Exhibit B reflecting the new schedule of Base Rental payments. A prepayment made pursuant to this Section 11 shall not cause a defeasance of Bonds unless the requirements of Section 9.03 of the Indenture are satisfied.

(c) Before making any prepayment pursuant to this Section 11, the City shall give written notice to the Authority and the Trustee specifying the date on which the prepayment will be made, which date shall be not less than forty-five (45) days from the date such notice is given.

(d) In the event of a prepayment in full of the principal component of Base Rental under this Section 11, such that this Sublease shall be terminated by its terms as provided in Section 2, all amounts then on deposit under the Indenture which are to be credited to the City's obligations to make Base Rental payments shall be credited towards the amounts then required to be so prepaid.

SECTION 12. RIGHT OF ENTRY

The Authority and its assignees shall have the right to enter any of the Project during reasonable business hours (and in emergencies at all times) (a) to inspect the same, (b) for any purpose connected with the City's or the Authority's rights or obligations under this Sublease, and (c) for all other lawful purposes.

SECTION 13. MECHANICS' LIENS

In the event the City shall at any time during the term of this Sublease cause any improvements or other work to be done or performed or materials to be supplied, in or upon a Project, the City shall pay, when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or for the City in, upon or about the Project and which may be secured by any mechanics', materialmen's or other liens against the Project or the Authority's interest therein, and will cause any such lien to be fully discharged and released at the time the performance of

any obligation secured by any such lien matures or becomes due, except that, if the City desires to contest any such lien it may do so. If any such lien shall be reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and said stay thereafter expires, the City shall forthwith pay and discharge said judgment.

SECTION 14. QUIET ENJOYMENT

The parties hereto mutually covenant that the City, so long as it keeps and performs the covenants and agreements herein contained, shall at all times during the term of this Sublease peaceably and quietly have, hold and enjoy the Project without suit, trouble or hindrance from the Authority.

SECTION 15. INDEMNIFICATION

The City shall, to the full extent then permitted by law, indemnify, defend, protect and hold harmless the Authority and its members, officers and employees and the Trustee from and against any and all liabilities, obligations, losses, claims and damages whatsoever, regardless of the cause thereof (except for any liability, obligation, loss, claim or damage arising out of the negligent or intentional act or omission of the Trustee, its officers, directors or employees), and expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties and interest arising out of or as the result of the entering into of this Sublease and the Indenture, the payment of the costs of acquiring the Project or any accident in connection with the operation, use, condition or possession of the Project or any portion thereof resulting in damage to property or injury to or death to any person. The indemnification arising under this section shall continue in full force and effect notwithstanding the full payment of all rent obligations hereunder or the termination hereof for any reason. The City agrees not to withhold or abate any portion of the payments required pursuant hereto by reason of any defects, malfunctions, breakdowns or infirmities of the Project. The Authority and the City mutually agree to promptly give notice to each other of any claim or liability hereby indemnified against following either's learning thereof.

SECTION 16. ASSIGNMENT

The parties understand that this Sublease and the rights of the Authority hereunder will be assigned to the Trustee pursuant to the Indenture, and accordingly, the City agrees to make all rental payments due to the Authority hereunder directly to the Trustee, notwithstanding any claim, defense, setoff or counterclaim whatsoever (whether arising from a breach hereof or otherwise) that the City may have from time to time against the Authority, except as provided in Section 17 hereof.

Neither this Sublease nor any interest of the City hereunder shall be mortgaged, pledged, assigned or transferred by the City by voluntary act or by operation of law or otherwise; provided that the City may sublease all or any portion of the Project, and may grant concessions to others involving the use of any portion of the Project, whether such concessions purport to convey a leasehold interest or a license to use a portion of the Project. The City shall at all times remain liable for the performance of the covenants and conditions on its part to be performed

under this Sublease, notwithstanding any subletting or granting of concessions which may be made. Nothing herein contained shall be construed to relieve the City from its obligation to pay Base Rental and Additional Rental as provided in this Sublease or to relieve the City from any other obligations contained herein.

SECTION 17. ABATEMENT OF RENTAL

The obligation of the City to pay Base Rental and Additional Rental shall be abated during any period in which, by reason of any damage, destruction or condemnation, there is substantial interference with the use and occupancy of the Project or any portion thereof by the City. Such abatement shall be in an amount agreed upon by the City and the Authority such that the resulting Base Rental in any year during which such interference continues does not exceed the fair rental value of the portions of the Project as to which such damage, destruction or taking do not substantially interfere with the City's use and right of possession. Such abatement shall continue for the period commencing with the date of such interference and ending with the restoration of the Project to tenantable condition. Upon the cessation of the occurrence of any abatement event during the term of this Sublease, the City shall cause the Project to be appraised by an MAI appraiser to determine its then current fair rental value. If such fair rental value is greater than the fair rental value of the Project determined under Section 3 as of the Closing Date, the Base Rental shall be increased by the lesser of (i) such incremental value or (ii) the amount needed to recoup all amounts abated during the remaining term of this Sublease.

Except as set forth herein, in the event of any damage, destruction or condemnation, this Sublease shall continue in full force and effect and the City hereby waives any right to terminate this Sublease by virtue of such damage, destruction or condemnation. The City further waives the benefit of Sections 1932(1), 1932(2), 1941 and 1942 of the California Civil Code.

SECTION 18. ADDITIONAL COVENANTS OF THE CITY

The City covenants that during the term of this Sublease it shall not use or permit the use of the Project or any proceeds of the Bonds, directly or indirectly, in any manner, and shall not take or omit to take any action, that would cause any of the Bonds to be treated as an obligation not described in Section 103(a) of the Code.

SECTION 19. SUBSTITUTION OF PROPERTY

Notwithstanding anything herein to the contrary, the Project may be substituted, in whole or in part, by other properties, at the option of the City; provided, that the following conditions shall have been satisfied: (i) such substitution does not, in the opinion of Bond Counsel, adversely affect the tax-exempt status of the Bonds; (ii) the City certifies to the Authority and the Trustee that the fair rental value of the substituted property is at least equal to the Base Rental each year for the remaining term of this Lease; (iii) the City has been advised by the rating agencies then rating the Bonds that such substitution will not, in and of itself, result in a reduction of such ratings on the Bonds; (iv) in the event that the substituted property consists in whole or in part of real property, a California Land Title Association insurance policy (or, at the City's sole discretion, an American Land Title Association insurance policy) on the substituted

property has been obtained and evidence that any existing title insurance with respect to the portion of the Project remaining after such substitution is not affected; (v) unless otherwise expressly waived in writing by the Bond Insurer, prior to any such substitution, the City shall furnish the Bond Insurer with the following: (1) an MAI fair market appraisal demonstrating that the value of the substituted property is at least equal to the portion of the Project released; (2) a Certificate of the City that the useful life of the substituted property meets or exceeds the remaining term of the Bonds; (3) a Certificate of the City that the essentiality of the substituted property is comparable to that of the portion of the Project released; and (4) evidence that, other than Permitted Encumbrances, no prior liens exist as to the substituted property; (vi) the parties hereto shall amend this Lease (and any "short form" or "Memorandum of Sublease" recorded pursuant to Section 26) to properly reflect such substitution

SECTION 20. WAIVER

Failure of the Authority to take advantage of any default on the part of the City shall not be, or be construed as, a waiver thereof, nor shall any custom or practice which may be established between the parties in the course of administering this Sublease be construed to waive or to lessen the right of the Authority to insist upon performance by the City of any term, covenant or condition hereof, or to exercise any rights given the Authority on account of such default. A waiver of a particular default shall not be deemed to be a waiver of the same or any subsequent default. The acceptance of rent hereunder shall not be, nor be construed to be, a waiver of any term, covenant or condition of this Sublease.

SECTION 21. NET LEASE

Subject to the provisions of Section 17 ("Abatement of Rental"), this Sublease shall be deemed and construed to be a "Triple-Net Lease" and the City hereby agrees that rental provided for herein shall be an absolute net return to the Authority, free and clear of any expenses, charges or setoffs whatsoever.

SECTION 22. LAW GOVERNING

This Sublease shall be governed exclusively by the provisions hereof and by the laws of the State of California.

SECTION 23. NOTICES

All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or by facsimile transmission or if mailed by United States registered or certified mail, return receipt requested, postage pre-paid, and, if to the City, addressed to the City Manager, City of Morgan Hill, 17555 Peak Avenue, Morgan Hill, California 95037 or if to the Authority, addressed to the Chief Administrative Officer, Morgan Hill Financing Authority, 17555 Peak Avenue, Morgan Hill, California 95037, or to such other addresses as the respective parties may from time to time designate by notice in writing.

SECTION 24. VALIDITY AND SEVERABILITY

If for any reason this Sublease shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the Authority or by the City, or if for any reason it is held by such a court that any of the covenants of the City hereunder, including the covenant to pay rentals hereunder, is unenforceable for the full term hereof, then and in such event this Sublease is and shall be deemed to be a lease from year to year under which the rentals are to be paid by the City monthly in consideration of the right of the City to possess, occupy and use the Project, and all of the rental and other terms, provisions and conditions of this Sublease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

SECTION 25. SECTION HEADINGS

All section headings contained are for convenience of reference only and are not intended to define or limit the scope of any provision of this Sublease.

SECTION 26. EXECUTION; RECORDATION

(a) This Sublease may be executed in any number of counterparts, each of which shall be deemed to an original, but all together shall constitute but one and the same instrument.

(b) This Sublease shall not be recorded, but the parties shall, at the commencement of the term hereof, execute and cause to be recorded in the office of the County Recorder of the County of Santa Clara, California, a “short form” or Memorandum of Sublease.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Authority and the City have caused this Sublease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

MORGAN HILL FINANCING AUTHORITY

By _____
Chief Administrative Officer

CITY OF MORGAN HILL

By _____
City Manager

EXHIBIT A

Description of the Site

That certain real property situated in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

EXHIBIT B

Base Rental Payment Schedule

<u>PAYMENT</u> <u>DATE</u>	<u>INTEREST</u> <u>COMPONENT</u>	<u>PRINCIPAL</u> <u>COMPONENT</u>	<u>TOTAL</u>
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INDENTURE

by and between the

MORGAN HILL FINANCING AUTHORITY

and

BNY WESTERN TRUST COMPANY

as Trustee

Dated as of July 1, 2004

Relating to

\$ _____
Morgan Hill Financing Authority
Lease Revenue Bonds
(Police Facility)
Series 2004

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Exhibit A – Form of Bond

Exhibit B – Form of Requisition (Costs of Issuance Fund)

Exhibit C – Form of Requisition (Project Fund)

INDENTURE

This Indenture is made and entered into as of July 1, 2004, by and between the Morgan Hill Financing Authority, a joint powers authority organized and existing under the laws of the State of California (the "Authority") and BNY Western Trust Company, a state banking corporation duly organized and existing under the State of California with a principal corporate trust office in Los Angeles, California, and being qualified to accept and administer the trusts hereby created (the "Trustee").

RECITALS:

A. The Authority is a joint powers authority duly organized and existing under and pursuant to that certain Joint Exercise of Powers Agreement, dated as of November 5, 2003, by and between the City of Morgan Hill (the "City") and the Morgan Hill Redevelopment Agency, and under the provisions of Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code of the State of California (the "Act"), and is authorized pursuant to Article 4 of the Act to issued bonds for the purpose of financing public capital improvements.

B. The Authority has determined to issue its Lease Revenue Bonds (Police Facility), Series 2004 (the "Bonds").

C. The proceeds of Bonds will be applied to finance a portion of the acquisition and improvement costs of certain real property which the City intends to use as the new police headquarters and related facilities (such real property, including land and improvements thereon, being referred to below as the "Project").

D. As part of the aforementioned financing, the Authority has entered into the following:

(i) a Lease Agreement, dated as of even date herewith, by and between the City and the Authority, whereby the Authority has agreed to lease the Project from the City; and

(ii) a Sublease Agreement, dated as of even date herewith (the "Sublease"), by and between the Authority and the City, whereby the Authority has agreed to sublease the Project to the City;

E. Under and pursuant to the Sublease, the City is obligated to make rental payments to the Authority for the subleasing of the Project.

F. The Authority has assigned, without recourse, all its rights to receive "Base Rental" payments (the "Base Rental Payments") scheduled to be paid by the City under and pursuant to the Sublease and certain other rights to the Trustee pursuant to an Assignment Agreement, dated as of even date herewith, by and between the Authority and the Trustee.

G. Subject to and in accordance with the terms of this Indenture, the Base Rental Payments to be received by the Trustee shall be held in a special fund pledged to the payment of the debt service of the Bonds.

H. The Bonds shall be issued pursuant to and secured by this Indenture in the manner provided herein

I. In order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and to secure the payment of the principal thereof and interest thereon, the Authority has authorized the execution and delivery of this Indenture.

J. The Authority has determined that all acts and proceedings required by law necessary to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of the Indenture have been in all respects duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the principal of and the interest and premium (if any) on all Bonds at any time issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable considerations, the receipt whereof is hereby acknowledged, the Authority does hereby covenant and agree with the Trustee, for the benefit of the respective Owners from time to time of the Bonds, as follows:

ARTICLE I
DEFINITIONS; AUTHORIZATION AND PURPOSE OF BONDS;
EQUAL SECURITY

SECTION 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall for all purposes of this Indenture and of any Supplemental Indenture and of the Bonds and of any certificate, opinion, request or other document herein mentioned have the meanings herein specified.

“Act” means Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code of the State, as in existence on the Closing Date or as thereafter amended from time to time.

“Additional Rental Payments” means the additional rental payable by the City under and pursuant to Section 3(b) of the Sublease.

“Annual Debt Service” means, with respect to any Bond Year, the sum obtained by after totaling the following:

(a) The principal amount of all Outstanding Bonds maturing or required to be redeemed by mandatory sinking account redemption in such Bond Year; and

(b) The interest which would be due during such Bond Year on the aggregate principal amount of Bonds which would be Outstanding in such Bond Year if the Bonds Outstanding on the date of such computation were to mature or be redeemed in accordance with the applicable maturity or mandatory sinking account redemption schedule. At the time and for the purpose of making such computation, the amount of Bonds already retired in advance of the above-mentioned schedule or schedules shall be deducted pro rata from the remaining amounts thereon.

“Authority” means the Morgan Hill Financing Authority, a joint powers agency duly organized and existing under the Agreement and the laws of the State.

“Authority Commission” means the governing body of the Authority.

“Average Annual Debt Service” means the average Annual Debt Service over all Bond Years.

“Bond Counsel” means any attorney or firm of attorneys appointed by or acceptable to the Authority of nationally recognized expertise in the issuance of obligations the interest on which is excludable from gross income for federal income tax purposes under the Code.

“Base Rental Payments” means the base rental payable by the City under and pursuant to Section 3(a) of the Sublease.

“Bond Insurance Policy” means the municipal bond insurance policy issued by the Bond Insurer and guaranteeing the payment of principal of and interest on the Bonds when due.

“Bond Insurer” means _____.

“Bond Law” means the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 of the Act, as in existence on the Closing Date or as thereafter amended from time to time.

“Bond Year” means each twelve-month period extending from July 16 in one calendar year to July 15 of the succeeding calendar year, both dates inclusive, except that the first Bond Year shall extend from the Closing Date to July 15, 2005.

“Bonds” means the Morgan Hill Financing Authority Lease Revenue Bonds (Police Facility) Series 2004 being issued under this Indenture.

“Business Day” means a day other than (i) a Saturday or Sunday, (ii) a day on which commercial banks in the city in which the Trustee maintains its Trust Office are authorized or required by law or executive order to close or (iii) a day on which the New York Stock Exchange is closed.

“Certificate of the Authority” means a certificate in writing signed by the President, the Chief Administrative Officer or the Treasurer of the Authority or by any other officer of the Authority duly authorized for that purpose by a resolution adopted by the Authority Commission and filed with the Trustee.

“Certificate of the City” means a certificate in writing signed by the Mayor, the Treasurer, the Finance Director or by any other officer of the City duly authorized for that purpose.

“Closing Date” means the initial date of delivery for the Bonds, which shall be July ____, 2004.

“Code” means the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

“Costs of Issuance,” means all expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds, including but not limited to all compensation, fees and expenses (including but not limited to fees and expenses for legal counsel) of the Authority and the Trustee, compensation to any financial consultants or underwriters, legal fees and expenses, filing and recording costs, costs of obtaining title insurance with respect to the Project, costs relating to conveyance of the Project, rating agency fees, costs of preparation and reproduction of documents, costs of printing, bond insurance premiums and fees and costs for any guaranty, surety bond, letter of credit or other credit facility.

“Costs of Issuance Fund” means the fund by that name established and held by the Trustee pursuant to Section 3.03.

“City” means the City of Morgan Hill, California.

“Depository” means The Depository Trust Company, New York, New York, and its successors and assigns as securities depository for the Bonds, or any other securities depository acting as Depository under Section 2.11.

“Event of Default” means any of the events described in Section 8.01.

“Federal Securities” means any direct, noncallable obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), or other noncallable obligations for which the faith and credit of the United States of America are pledged for the payment of principal and interest.

“Fiscal Year” means any twelve-month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the Authority as its official fiscal year period.

“Fitch” means Fitch Ratings, and its successors and assigns.

“Indenture” means this Indenture, as originally executed or as it may from time to time be amended or supplemented in accordance herewith.

“Information Services” means Financial Information, Inc., Daily Called Bond Service, 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 07302, Attention: Editor; Mergent/FIS, Inc., 5250 77 Center Drive, Suite 150, Charlotte, North Carolina 28217, Attention: Called Bond Department; and Standard & Poor’s J.J. Kenny Drake, Inc., 55 Water Street, 45 Floor, New York, New York 10041, Attention: Notification Department; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other services providing information with respect to called bonds as the Authority may designate in a Certificate of the Authority delivered to the Trustee.

“Interest Account” means the account by that name established and held by the Trustee pursuant to Section 4.02(a).

“Interest Payment Date” means July 15 and January 15 of each year, commencing January 15, 2005.

“JPA Agreement” means that certain Joint Exercise of Powers Agreement, dated as of November 5, 2003, entered into under the Act by the City of Morgan Hill and the Morgan Hill Redevelopment Agency, together with any amendments thereof and supplements thereto.

“Lease” means that certain Lease Agreement, dated as of even date herewith, with respect to the Project, by and between the City as lessor and the Authority as lessee, as the same may be amended, supplemented or otherwise modified from time to time.

“Lease Revenue Fund” means the fund by that name established and held by the Trustee pursuant to Section 4.02.

“Maximum Annual Debt Service” means, with respect to the Bonds, the largest Annual Debt Service during the period from the date of calculation through the final maturity date of any Outstanding Bonds.

“Moody’s” means Moody’s Investors Service, Inc., and its successors and assigns.

“Nominee” means the nominee of the Depository, which initially will be Cede & Co., as determined from time to time pursuant to Section 2.11.

“Original Purchaser” means _____.

“Outstanding,” when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 10.07) all Bonds theretofore executed, issued and delivered by the Authority under this Indenture except:

- (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation;

- (b) Bonds paid or deemed to have been paid within the meaning of Section 10.03; and
- (c) Bonds in lieu of which or in substitution for which other Bonds shall have been executed, issued and delivered pursuant to this Indenture or any Supplemental Indenture.

“Owner” or “Bond Owner,” when used with respect to any Bond, means the person in whose name the ownership of such Bond shall be registered on the Registration Books.

“Participants” means those broker-dealers, banks and other financial institutions from time to time for which the Depository holds Bonds as securities depository.

“Permitted Investments” mean any of the following obligations if and to the extent that they are permissible investments of funds of the Authority and/or the City, as applicable:

(a) Direct obligations of the United States (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States.

(b) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States (stripped securities are only permitted if they have been stripped by the agency itself):

1. U.S. Export-Import Bank (“Eximbank”)
Direct obligations or fully guaranteed certificates of beneficial ownership
2. Farmers Home Administration (“FmHA”)
Certificates of beneficial ownership
3. Federal Financing Bank
4. Federal Housing Administration Debentures (“FHA”)
5. General Services Administration
Participation certificates
6. Government National Mortgage Association (“GNMA”)
GNMA—guaranteed mortgage-backed bonds
GNMA—guaranteed pass-through obligations (participation certificates) (not acceptable for certain cash-flow sensitive issues)
7. United States Maritime Administration
Guaranteed Title XI financing

8. United States Department of Housing and Urban Development
Project Notes
Local Authority Bonds
New Communities Debentures
 United States government guaranteed debentures
United States Public Housing Notes and Bonds
 United States government guaranteed public housing notes
 and bonds

(c) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit United States government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

1. Federal Home Loan Bank System
Senior debt obligations
2. Federal Home Loan Mortgage Corporation ("FHLMC")
Participation Certificates
Senior debt obligations
3. Federal National Mortgage Association ("FNMA")
Mortgage-backed securities and senior debt obligations
4. Student Loan Marketing Association ("SLMA")
Senior debt obligations
5. Resolution Funding Corporation obligations
6. Farm Credit System
Consolidated system-wide bonds and notes

(d) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of "AAAm-G," "AAA-m" or "AA-m" and if rated by Moody's rated "Aaa," "Aa1" or "Aa2," including funds for which the Trustee or any of its affiliates (including any holding company, subsidiaries, or other affiliates) provides investment advisory or other management services, provided such funds satisfy the criteria herein contained.

(e) Certificates of deposit secured at all times by collateral described in (a) and/or (b) above. Such certificates must be issued by commercial banks (including affiliates of the Trustee), savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral.

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee and its affiliates) which are fully insured by FDIC, including BIF and SAIF.

(g) Investment agreements, including guaranteed investment contracts, forward purchase agreements and reserve fund put agreements acceptable to the Bond Insurer.

(h) Commercial paper rated, at the time of purchase, “Prime - 1” by Moody’s and “A-1” or better by S&P.

(i) Bonds or notes issued by any state or municipality which are rated by Moody’s and S&P in one of the two highest rating categories assigned by such agencies.

(j) Federal funds or bankers acceptances with a maximum term of one year of any bank (including those of the Trustee and its affiliates) which has an unsecured, uninsured and unguaranteed obligation rating of “Prime - 1” or “A3” or better by Moody’s and “A-1” or “A” or better by S&P.

(k) Repurchase agreements for 30 days or less must follow the following criteria; provided that repurchase agreements which exceed 30 days must be acceptable to the Bond Insurer. Repurchase agreements which provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the municipal entity in exchange for the securities at a specified date, and

1. Repurchase agreements must be between the municipal entity and a dealer bank or securities firm

A. Primary dealers on the Federal Reserve reporting dealer list which are rated “A” or better by S&P and Moody’s, or

B. Banks rated “A” or above by S&P and Moody’s.

2. The written repurchase agreements contract must include the following:

A. Securities which are acceptable for transfer are:

(1) Direct United States governments, or

(2) Federal agencies backed by the full faith and credit of the United States government (and FNMA & FHLMC)

B. The term of a repurchase agreement may be up to 30 days

C. The collateral must be delivered to the municipal entity, trustee (if trustee is not supplying the collateral) or third party acting as agent for the trustee (if the trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).

D. Valuation of Collateral

(1) The securities must be valued weekly, marked-to-market at current market price plus accrued interest

(2) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.

3. A legal opinion must be delivered to the municipal entity to the effect that the repurchase agreement meets guidelines under state law for legal investment of public funds.

(1) Any state or county administered pool investment fund, including, but not limited to the Local Agency Investment Fund in the treasury of the State.

“Principal Account” means the account by that name established and held by the Trustee pursuant to Section 4.02(b).

“Project” means, collectively, the Site and the police facility all other improvements constructed thereon.

“Project Fund” means the fund by that name established and held by the Trustee pursuant to Section 3.04.

“Qualified Reserve Account Credit Instrument” means an irrevocable standby or direct-pay letter of credit or surety bond issued by a commercial bank or insurance company and deposited with the Trustee pursuant to Section 4.02(c)(2), provided that all of the following requirements are met: (i) at all times during the term of such letter of credit or surety bond, the long-term credit rating of such bank is within the highest rating category of Moody’s and S&P, or the claims paying ability of such insurance company is rated within the highest rating category of A.M. Best & Company and S&P; (ii) such letter of credit or surety bond has a term which ends no earlier than the last Interest Payment Date of the series of Bonds to which the Reserve Requirement applies; (iii) such letter of credit or surety bond has a stated amount at least equal to the portion of the Reserve Requirement with respect to which funds are proposed to be released pursuant to Section 4.02(c)(2); and (iv) the Trustee is authorized pursuant to the terms of such letter of credit or surety bond to draw thereunder amounts necessary to carry out the purposes specified in Section 4.02(c)(1), including the replenishment of the Interest Account or the Principal Account.

“Record Date” means, with respect to any Interest Payment Date, the last calendar day of the month immediately preceding such Interest Payment Date, whether or not such day is a Business Day.

“Redemption Fund” means the fund by that name established and held by the Trustee pursuant to Section 4.03.

“Registration Books” means the records maintained by the Trustee pursuant to Section 2.09 for the registration and transfer of ownership of the Bonds.

“Rental Payments” means collectively the Base Rental Payments and the Additional Rental Payments.

“Representation Letter” means a blanket representation letter from the Authority to the Depository, qualifying bonds issued by the Authority for the Depository’s book-entry system.

“Request of the Authority” means a request in writing signed by the President, the Chief Administrative Officer, or the Treasurer of the Authority, or by any other officer of the Authority duly authorized for that purpose by a resolution adopted by the Authority Commission and filed with the Trustee.

“Request of the City” means a request in writing signed by the Mayor, the Treasurer or the Finance Director of the City, or by any other officer of the City duly authorized for that purpose.

“Reserve Account” means the account by the name established and held by the Trustee pursuant to Section 4.02(c).

“Reserve Requirement” (to be confirmed by the Authority to the Trustee upon the Trustee’s request) means, as of any calculation date, an amount equal to the least of (i) ten percent (10%) of the proceeds (within the meaning of Section 148 of the Code) of the Bonds; (ii) 125% of Average Annual Debt Service; or (iii) Maximum Annual Debt Service.

“Revenues” means (a) all Base Rental Payments payable by the City pursuant to the Sublease (including prepayments); (b) any proceeds of Bonds originally deposited with the Trustee and held by the Trustee in the Lease Revenue Fund and the accounts thereof; (c) investment income with respect to any moneys held by the Trustee in the Lease Revenue Fund and the accounts thereof (other than amounts payable to the United States of America pursuant to Section 5.08); and (d) any insurance proceeds or condemnation awards received by or payable to the Trustee with respect to the Project, including rental interruption insurance.

“S&P” means Standard & Poor’s, and its successors and assigns.

“Securities Depositories” means The Depository Trust Company, 55 Water Street, 50th Floor, New York, New York 10041, Attn: Call Notification Department, Fax (212) 855-7232 and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the Authority may designate in a Certificate of the Authority delivered to the Trustee.

“Site” means that certain parcel of land described in the Sublease.

“Sublease” means that certain Sublease Agreement, dated as of even date herewith, with respect to the Project, by and between the Authority as lessor and the City as lessee, as the same may be amended, supplemented or otherwise modified from time to time.

“State” means the State of California.

“Supplemental Indenture” means any agreement supplemental to or amendatory of this Indenture entered into in accordance with the provisions of Article VII.

“Tax Certificate,” with respect to the Bonds issued hereunder, means the Certificate regarding Compliance with Certain Tax Matters (or similar instrument) dated the date of the Closing Date relating to the requirements of certain provisions of the Code, as such certificate may from time to time be modified or supplemented in accordance with the terms thereof.

“Term Bonds” means the Bonds maturing on July 15, 20__ and July 15, 20__.

“Trust Office” means the principal corporate trust office of the Trustee in Los Angeles, California or such other offices as may be specified to the Authority by the Trustee in writing. With respect to presentation of Bonds for payment or for registration of transfer and exchange such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate trust business shall be conducted.

“Trustee” means BNY Western Trust Company, and its successors and assigns, and any other corporation or association that may at any time be substituted in its place as provided in Article VI.

SECTION 1.02. Rules of Construction. All references in this Indenture to “Articles,” “Sections,” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; and the words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

SECTION 1.03. Authorization and Purpose of Bonds. The Authority has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and hereby finds and determines that all things, conditions, and acts required by law to exist, to happen and to be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Authority is now authorized under the JPA Agreement and the Bond Law and each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture. Accordingly, the Authority hereby authorizes the issuance of the Bonds pursuant to the Bond Law and this Indenture for the purposes described in the recitals hereof.

SECTION 1.04. Equal Security. In consideration of the acceptance of the Bonds by the Owners thereof, this Indenture shall be deemed to be and shall constitute a contract between the Authority and the Owners from time to time of the Bonds; and the covenants and agreements herein set forth to be performed on behalf of the Authority shall be for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference,

priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution or delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

ARTICLE II ISSUANCE OF BONDS

SECTION 2.01. Designation. The Bonds are authorized to be issued by the Authority under and subject to the Bond Law and the terms of this Indenture and shall be designated the “Morgan Hill Financing Authority, Lease Revenue Bonds (Police Facility), Series 2004” and shall be issued in the original aggregate principal amount of _____ Dollars (\$_____).

SECTION 2.02. Terms of Bonds. The Bonds shall be dated the Closing Date, shall mature on the dates and in the amounts, and shall bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rates, as follows:

<u>Maturity Date</u> <u>(July 15)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u> <u>(July 15)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
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The Bonds shall be delivered in fully registered form, numbered from one upwards in consecutive numerical order (with such alphabetical prefix as the Trustee shall determine). The Bonds shall be executed and delivered in the denominations of \$5,000 and any integral multiple thereof.

Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (i) it is executed during the period from the day after the Record Date for an Interest Payment Date to and including such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (ii) it is executed on or prior to the Record Date for the first Interest Payment Date, in which event it shall bear interest from its dated date; provided, however, that if, at the time of registration of any Bond interest with respect to such Bond is in default, such Bond shall bear interest from the Interest Payment Date to which interest has been paid or made available for payment with respect to such Bond.

Interest with respect to any Bond shall be payable in lawful money of the United States of America on each Interest Payment Date to the Owner thereof as of the close of business on the

Record Date. Subject to Section 2.11, interest on the Bonds shall be paid by check or draft of the Trustee, mailed by first class mail no later than the Interest Payment Date to the Owner at his address as it appears, on such Record Date, on the Registration Books maintained by the Trustee; provided, however, that at the written request of the Owner of at least \$1,000,000 in aggregate principal amount of Outstanding Bonds filed with the Trustee prior to any Record Date, interest on such Bonds shall be paid to such Owner on each succeeding Interest Payment Date (unless such request has been revoked in writing) by wire transfer of immediately available funds to an account in the United States designated in such written request. Payments of defaulted interest with respect to the Bonds shall be paid by check or draft to the registered Owners of the Bonds as of a special record date to be fixed by the Trustee, notice of which special record date shall be given to the registered Owners of the Bonds not less than ten days prior thereto. The principal of and premium, if any, on the Bonds are payable by check when due upon surrender thereof at the Trust Office in lawful money of the United States of America.

SECTION 2.03. Redemption of Bonds.

(a) Extraordinary Redemption. The Bonds are subject to redemption prior to their respective maturity dates, upon notice as hereinafter provided, as a whole on any date, from amounts on deposit in the Redemption Fund which have been transferred to the Trustee by the City pursuant to Section 11(a) of the Sublease (from Net Proceeds received by the City from insurance payments or due to a taking of the Project under the circumstances and upon the conditions and terms prescribed in the Sublease).

Redemption pursuant to this subsection (a) shall be made at a redemption price equal to the sum of the principal of the Bonds to be redeemed plus accrued interest thereon to the date fixed for redemption, without premium.

(b) Redemption from Prepayments of Base Rental. The Bonds, maturing on or after July 15, 20__ shall be subject to redemption prior to their respective maturity dates, as a whole or in part, from prepayments of Base Rental made at the option of the City under Section 11 of the Sublease on any date with respect to which such prepayment have been made (which shall be on or after July 15, 20__). The Bonds called for redemption pursuant to this Section 2.03(b) shall be redeemed at the following respective redemption prices (expressed as percentages of the principal amount of the Bonds to be redeemed), plus accrued interest thereon to the date of redemption:

<u>Redemption Date</u>	<u>Redemption Price</u>
July 15, 20__ through July 14, 20__	10_ %
July 15, 20__ through July 14, 20__	10_
July 15, 20__ or thereafter	100

(c) Sinking Account Redemption. The Bonds maturing on July 15, 20__, and the Bonds maturing on July 15, 20__ are subject to redemption in part by lot from sinking account payments made by the Authority, at a redemption price equal to the principal amount thereof to be redeemed with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following tables; provided, however, if some but not all of the Term Bonds of a maturity have been

redeemed pursuant to Section 2.03(a) or 2.03(b), each future sinking account payment with respect to such Term Bonds will be reduced on a pro rata basis (as nearly as practicable) in integral multiples of \$5,000, so that the total amount of sinking account payments with respect to such Term Bonds to be made subsequent to a Section 2.03(a) extraordinary redemption or a Section 2.03(b) optional redemption shall be reduced by an amount equal to the principal amount of the term Bonds so redeemed, all as shall be designated pursuant to written notice filed by the Authority with the Trustee:

Bonds Maturing on July 15, 20__

<u>Redemption Date</u> <u>(July 15)</u>	<u>Principal Amount</u> <u>to be Redeemed</u>	<u>Redemption Date</u> <u>(July 15)</u>	<u>Principal Amount</u> <u>to be Redeemed</u>

(maturity)

Bonds Maturing on July 15, 20__

<u>Redemption Date</u> <u>(July 15)</u>	<u>Principal Amount</u> <u>to be Redeemed</u>	<u>Redemption Date</u> <u>(July 15)</u>	<u>Principal Amount</u> <u>to be Redeemed</u>

(maturity)

In lieu of a redemption pursuant to this Section 2.03(c), the Trustee may apply amounts in the Principal Account to purchase Term Bonds at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as may be directed by the Authority, except that the purchase price (exclusive of accrued interest) may not exceed the redemption price then applicable to such Bonds, as set forth in writing by the Authority; provided, however, that no Term Bonds shall be purchased by the Trustee hereunder with a settlement date more than 60 days prior to the date on which the Authority would otherwise redeem such Term Bonds pursuant to this Section 2.03(c). The principal amount of any Term Bonds so purchased by the Trustee shall be credited towards and shall reduce the Principal Account payment otherwise required to be made with respect to such term Bonds on the applicable redemption date.

(d) Notice of Redemption. The Trustee on behalf and at the expense of the Authority shall mail (by first class mail) notice of any redemption to the respective Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, to the Securities Depositories and to one or more Information Services, at least 30 but not more than 60 days prior to the date fixed for redemption; provided, however, that neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall specify the CUSIP numbers, the Bond numbers and the maturity or maturities (in the event of redemption of all of the Bonds of such maturity or maturities in whole) of the Bonds to be redeemed, and shall require that such Bonds be then surrendered at the Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date. Neither the Authority

nor the Trustee shall have any responsibility for any defect in the CUSIP number that appears on any Bond or in any redemption notice with respect thereto, and any such redemption notice may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the Authority nor the Trustee shall be liable for any inaccuracy in such numbers.

(e) Selection of Bonds for Redemption. Whenever provision is made in this Indenture for the redemption of less than all of the Bonds, the Trustee shall select the Bonds to be redeemed from all Outstanding Bonds or such given portion thereof not previously called for redemption, among maturities (unless the maturity or maturities are otherwise specified in this Indenture or in writing by the Authority) and by lot within a maturity in any manner which the Trustee in its discretion shall deem appropriate. For purposes of such selection, all Bonds shall be deemed to be comprised of separate \$5,000 portions and such portions shall be treated as separate Bonds, which may be separately redeemed.

(f) Partial Redemption of Bonds. In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond, the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds of the same maturity date, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond being redeemed.

(g) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of and interest (and premium, if any) on the Bonds so called for redemption shall have been duly provided, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date. All Bonds redeemed pursuant to this Section 2.03 shall be canceled by the Trustee. All moneys held by or on behalf of the Trustee for the payment of principal of or interest or premium on Bonds, whether at redemption or maturity, shall be held in trust for the account of the Owners thereof and the Trustee shall not be required to pay Owners any interest on, or be liable to Owners for any interest earned on, moneys so held.

(h) Right to Rescind Optional Redemption. The Authority may rescind any optional redemption by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of redemption shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default hereunder. The Authority and the Trustee shall have no liability to the Owners or any other party related to or arising from such rescission. The Trustee shall mail notice of such rescission in the same manner as that prescribed in subsection (d) of this Section 2.03.

SECTION 2.04. Form of Bonds. The Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, shall be substantially in the respective forms set forth in Exhibit A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

SECTION 2.05. Execution of Bonds. The Bonds shall be signed in the name and on behalf of the Authority with the manual or facsimile signatures of its President or Vice President and attested with the manual or facsimile signature of its Secretary or any Assistant Secretary duly appointed by the Authority Commission, and shall be delivered to the Trustee for authentication by it. In case any officer of the Authority who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed shall have been authenticated or delivered by the Trustee or issued by the Authority, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the Authority as though the individual who signed the same had continued to be such officer of the Authority. Also, any Bond may be signed on behalf of the Authority by any individual who on the actual date of the execution of such Bond shall be the proper officer although on the nominal date of such Bond such individual shall not have been such officer.

Only such of the Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit A, manually executed on behalf of the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

SECTION 2.06. Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by his duly authorized attorney, upon presentation and surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed. Whenever any Bond shall be surrendered for transfer, the Authority shall execute and the Trustee shall thereupon authenticate and deliver to the transferee a new Bond or Bonds of like tenor, maturity and aggregate principal amount. The cost of printing any Bonds and any services rendered or expenses incurred by the Trustee in connection with any such transfer shall be paid by the Authority, except that the Trustee shall require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer. The Trustee shall not be required to transfer, pursuant to this Section, (a) any Bond during the period established by the Trustee for the selection of Bonds for redemption or (b) any Bond selected for redemption pursuant to Section 2.03(e).

SECTION 2.07. Exchange of Bonds. Bonds may be exchanged at the Trust Office of the Trustee for the same aggregate principal amount of Bonds of the same tenor and maturity and of other authorized denominations. The cost of printing any Bonds and any services rendered or expenses incurred by the Trustee in connection with any such exchange shall be paid by the Authority, except that the Trustee shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. The Trustee shall not be required to exchange, pursuant to this Section, (a) any Bond during the period established by the Trustee for the selection of Bonds for redemption or (b) any Bond selected for redemption pursuant to Section 2.03(e).

SECTION 2.08. Temporary Bonds. The Bonds may be issued initially in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Authority and may contain such reference to any of the provisions of this Indenture as may be

appropriate. Every temporary Bond shall be executed by the Authority and be registered and authenticated by the Trustee upon the same conditions and in substantially the same manner as the definitive Bonds. If the Authority issues temporary Bonds, it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange therefor at the Trust Office of the Trustee, and the Trustee shall authenticate and deliver in exchange for such temporary Bonds definitive Bonds of like tenor, maturity and aggregate principal amount in authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds authenticated and delivered hereunder.

SECTION 2.09. Registration Books. The Trustee will keep or cause to be kept at its Trust Office sufficient records for the registration and transfer of the Bonds, which shall at all times during regular business hours be open to inspection by the Authority with reasonable prior notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer, or cause to be registered or transferred, on said records, Bonds as herein provided.

SECTION 2.10. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Authority, at the expense of the Owner of said Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor, maturity and aggregate principal amount in an authorized denomination in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it. If any Bond issued hereunder shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence shall be satisfactory to it and indemnity satisfactory to it shall be given, the Authority, at the expense of the Bond Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like series and tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall have been called for redemption, instead of issuing a substitute Bond the Trustee may pay the same without surrender thereof upon receipt of indemnity satisfactory to the Trustee). The Authority may require payment of a reasonable fee for each new Bond issued under this Section and of the expenses that may be incurred by the Authority and the Trustee. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original contractual obligation on the part of the Authority whether or not the Bond alleged to be lost, destroyed or stolen shall be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds secured by this Indenture.

SECTION 2.11. Book-Entry System.

(a) Book-Entry System; Limited Obligation of Authority. The Bonds shall be initially delivered in the form of a separate single fully registered Bond (which may be typewritten) for each of the maturities of the Bonds. Upon initial delivery, the ownership of each such Bond shall be registered in the registration books kept by the Trustee in the name of the Nominee as nominee of the Depository. Except as provided in Section 2.11(c), all of the Outstanding Bonds shall be registered in the registration books kept by the Trustee in the name of the Nominee.

With respect to Bonds registered in the registration books kept by the Trustee in the name of the Nominee, the Authority and the Trustee shall have no responsibility or obligation to any Participant or to any person on behalf of which such a Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Authority and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee, or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant or any other person, other than an Owner as shown in the registration books kept by the Trustee, of any notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository and its Participants of the beneficial interests in the Bonds to be redeemed in the event the Bonds are redeemed in part, or (iv) the payment to any Participant or any other person, other than an Owner as shown in the registration books kept by the Trustee, of any amount with respect to principal of, premium, if any, or interest due with respect to the Bonds. The Authority and the Trustee may treat and consider the person in whose name each Bond is registered in the registration books kept by the Trustee as the holder and absolute owner of such Bond for the purpose of payment of principal, premium, if any, and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Trustee shall pay all principal of, premium, if any, and interest due with respect to the Bonds only to or upon the order of the respective Owners, as shown in the registration books kept by the Trustee, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to satisfy and discharge fully the Authority's obligations with respect to payment of the principal, premium, if any, and interest due with respect to the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the registration books kept by the Trustee, shall receive a Bond evidencing the obligation of the Authority to make payments of principal, premium, if any, and interest pursuant to this Indenture. Upon delivery by the Depository to the Trustee and the Authority of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to Record Dates, the word Nominee in this Indenture shall refer to such new nominee of the Depository.

(b) Representation Letter. In order to qualify the Bonds for the Depository's book-entry system, the Authority shall execute and deliver to such Depository a Representation Letter. The execution and delivery of a Representation Letter shall not in any way impose upon the Authority or the Trustee any obligation whatsoever with respect to persons having interests in the Bonds other than the Owners, as shown on the registration books kept by the Trustee. The Trustee agrees to take all action necessary to continuously comply with the Representation Letter to the extent that such action is not inconsistent with this Indenture. In addition to the execution and delivery of the Representation Letter, the President, the Secretary and all other officers of the Authority are hereby authorized to take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

(c) Transfers Outside of Book-Entry System. In the event (i) the Depository determines not to continue to act as securities depository for the Bonds, or (ii) the Authority determines that the Depository shall no longer so act, then the Authority will discontinue the book-entry system with the Depository. If the Authority fails to identify another qualified

securities depository to replace the Depository, then the Bonds so designated shall no longer be restricted to being registered in the registration books kept by the Trustee in the name of the Nominee, but shall be registered in whatever name or names persons transferring or exchanging Bonds shall designate, in accordance with the provisions of Section 2.09.

(d) Payments to Nominee. Notwithstanding any other provisions of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal, premium, if any, and interest due with respect to such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the Representation Letter or as otherwise instructed by the Depository.

(e) Initial Depository and Nominee. The initial Depository under this Article shall be The Depository Trust Company, New York, New York. The initial Nominee shall be Cede & Co., as Nominee of The Depository Trust Company, New York, New York.

ARTICLE III DEPOSIT AND APPLICATION OF PROCEEDS

SECTION 3.01. Issuance of Bonds. Upon the execution and delivery of this Indenture, the Authority shall execute and deliver the Bonds to the Trustee for authentication and delivery to or on the order of the Original Purchaser upon the Request of the Authority.

SECTION 3.02. Application of Proceeds of Sale of Bonds. On the Closing Date, the Trustee shall receive (i) \$75,000.00 from the Authority, representing the good faith deposit received from the Original Purchaser prior to the Closing Date (the "Deposit"), and (ii) \$_____ from the Original Purchaser (representing the par amount of the Bonds, [less/plus] an original [discount/premium] of \$_____, less the Deposit and an underwriters' discount of \$_____, and less \$_____ paid directly to the Bond Insurer on behalf of the Authority). The Trustee shall apply such Bonds proceeds as follows:

- (a) Deposit \$_____ in the Costs of Issuance Fund;
- (b) Deposit \$_____ in the Project Fund; and
- (c) Deposit the remaining _____ in the Reserve Account in satisfaction of the initial Reserve Requirement.

For record keeping purposes the Trustee may establish such funds and accounts as may be necessary to reflect such deposits.

SECTION 3.03. Costs of Issuance Fund. There is hereby established a fund to be held by the Trustee known as the "Costs of Issuance Fund," into which shall be deposited a portion of the proceeds of the sale of the Bonds pursuant to Section 3.02. The moneys in the Costs of Issuance Fund shall be used to pay Costs of Issuance from time to time and shall be disbursed by the Trustee upon delivery to the Trustee of a requisition, substantially in the form attached hereto as Exhibit B, executed by an officer of the Authority. On the date that is 90 days following the Closing Date, or upon the earlier receipt by the Trustee of a Request of the Authority certifying

that all Costs of Issuance have been paid or provided for, the Trustee shall transfer all remaining amounts in the Costs of Issuance Fund to the Lease Revenue Fund.

SECTION 3.04. Project Fund. The Trustee shall establish and maintain a separate fund to be known as the “Project Fund.” On the Closing Date, the Trustee shall deposit a portion of the sale proceeds of the Bonds into the Project Fund pursuant to Section 3.02. The Trustee shall disburse or transfer amounts from the Project Fund, as stated in a Request of the City, substantially in the form attached hereto as Exhibit C, for the payment of acquisition and/or improvement costs of the Project. Upon receipt of each such Request of the City, the Trustee shall pay the amount set forth in such Request as directed by the terms thereof.

When the acquisition and improvement of the Project, or the portions thereof determined by the City to be financed hereunder, have been completed, the Authority shall deliver or shall cause the City to deliver to the Trustee a Certificate of the City, stating the fact and date of such completion. Following the delivery of such certificate and upon receipt of a Request of the City, the Trustee shall transfer amounts then on deposit in the Project Fund to the Lease Revenue Fund.

SECTION 3.05. Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be affected in any way by any proceedings taken with respect to the application of the proceeds of the Bonds, and the recital contained in the Bonds that the same are issued pursuant to the Bond Law shall be conclusive evidence of their validity and of the regularity of their issuance.

ARTICLE IV REVENUES; FLOW OF FUNDS

SECTION 4.01. Pledge of Revenues; Assignment of Rights. Subject to the provisions of Section 6.03, the Bonds shall be secured by a first lien on and pledge (which shall be effected in the manner and to the extent hereinafter provided) of all of the Revenues and a pledge of all the moneys in the Interest Account, the Principal Account and the Reserve Account, including all amounts derived from the investments of such moneys. The Bonds shall be equally secured by a pledge, charge and lien upon the Revenues and such moneys without priority for number, date of the Bonds, date of execution or date of delivery; and the payment of the interest on and principal of the Bonds and any premiums upon the redemption of any portion thereof shall be and are secured by an exclusive pledge, charge and lien upon the Revenues and such moneys. So long as any of the Bonds are Outstanding, the Revenues shall not be used for any other purpose; except that out of the Revenues and such moneys there may be apportioned such sums, for such purposes, as are expressly permitted by Section 4.02.

The Authority hereby transfers in trust and assigns to the Trustee, for the benefit of the Owners from time to time of the Bonds, all of the Revenues and all of the right, title and interest of the Authority in the Sublease (other than its rights to indemnification and payment or reimbursement for any costs or expenses), including its rights to receive the Base Rental scheduled to be paid by the City under and pursuant to the Sublease and any and all of the other rights of the Authority under the Sublease as may be necessary to enforce payment of such Base Rental when due or otherwise to protect the interest of the Owners of the Bonds, including its

leasehold title to the Project leased to the City pursuant to the Sublease. The Trustee accepts such assignments. The Trustee shall be entitled to and shall receive all of the Revenues, and any Revenues collected or received by the Authority shall be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee.

SECTION 4.02. Lease Revenue Fund. All Base Rental Payments shall be deposited by the Trustee in a special fund designated as the “Lease Revenue Fund,” which the Trustee shall establish, maintain and hold in trust hereunder.

On or before each Interest Payment Date, the Trustee shall transfer from the Lease Revenue Fund and deposit into the following respective accounts (each of which the Trustee shall establish and maintain within the Lease Revenue Fund), the following amounts in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting from lack of Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

(a) ***Interest Account.*** On or before each Interest Payment Date, the Trustee shall deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to equal the amount of interest becoming due and payable on such Interest Payment Date on all Outstanding Bonds. No deposit need be made into the Interest Account if the amount contained therein is at least equal to the interest becoming due and payable upon all Outstanding Bonds on each succeeding Interest Payment Date within the then current Bond Year. All moneys in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds redeemed prior to maturity pursuant to Section 2.03).

(b) ***Principal Account.*** On or before each Interest Payment Date, the Trustee shall deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of the Bonds maturing or required to be redeemed through mandatory sinking account redemption on such Interest Payment Date pursuant to Section 2.02 or Section 2.03 or pursuant to a Supplemental Indenture, as the case may be. All moneys in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Bonds.

(c) ***Reserve Account.***

(1) On or before each Interest Payment Date, the Trustee shall deposit in the Reserve Account such amount as may be necessary to maintain a balance therein equal to the Reserve Requirement. No deposit need be made in the Reserve Account so long as there shall be on deposit an amount equal to the Reserve Requirement. Except as expressly provided herein, all money in (or available to) the Reserve Account shall be used and withdrawn by the Trustee solely for the purpose of replenishing the Interest Account and the Principal Account in such order, in the event of any deficiency at any time in either of such accounts, or for the purpose of paying the interest on or principal of or redemption premiums, if any, on the Bonds, or for the retirement of all Bonds then Outstanding. Any amount in the Reserve Account in excess of the Reserve Requirement shall be transferred monthly to the Lease Revenue Fund.

(2) The Reserve Requirement may be satisfied by crediting to the Reserve Account moneys or one or more Qualified Reserve Account Credit Instruments or any combination thereof, which in the aggregate make funds available in the Reserve Account in an amount equal to the Reserve Requirement. Upon the deposit with the Trustee of such Qualified Reserve Account Credit Instrument, the Trustee shall release moneys then on hand in the Reserve Account to the City, to be used for any lawful purpose, in an amount equal to the face amount of the Qualified Reserve Account Credit Instrument.

(d) ***Surplus.*** On or promptly after each Interest Payment Date, Trustee shall determine the amount, if any, remaining in the Lease Revenue Fund after making the deposits required by paragraphs (a) through (c) above and the transfers of investment earnings pursuant to Section 4.04, and shall notify the City of the amount so determined. The Trustee shall apply such amount as a credit against the next following Base Rental Payment; provided that, if directed in a Request of the City, the Trustee shall, with respect to all or any portion of such amount: (i) pay, or set an amount aside for the payment of, any Rebate Requirement (as defined in the Tax Certificate) in accordance with a computation made by the City; or (ii) transfer an amount to the Project Fund.

SECTION 4.03. Redemption Fund. There is hereby established a fund to be held by the Trustee known as the “Redemption Fund.” At any time the Trustee receives money from the City pursuant to Section 11(a) (Net Proceeds from insurance payments or taking proceedings) or Section 11(b) (optional prepayments of Base Rental Payments) of the Sublease, the Trustee shall immediately deposit such money as follows: (a) an amount equal to the interest on the Bonds to be redeemed pursuant to Section 2.03(a) or 2.03(b), as applicable, accrued to the redemption date shall be deposited in the Interest Account; and (ii) the balance of such moneys shall be deposited in the Redemption Fund. Amounts on deposit in the Redemption Fund shall be applied solely for the purpose of paying the principal of and premium, if any, on the Bonds to be redeemed pursuant to Section 2.03(a) or 2.03(b), as applicable; provided, however, that at any time prior to giving notice of redemption of any such Bonds, the Trustee may apply such amounts to the purchase of Bonds at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as shall be directed in writing by the Authority, except that the purchase price (exclusive of accrued interest) may not exceed the redemption price then applicable to the Bonds.

SECTION 4.04. Investments. All moneys in any of the funds or accounts established with the Trustee pursuant to this Indenture shall be invested by the Trustee solely in Permitted Investments pursuant to the written direction of the Authority given to the Trustee two Business Days in advance of the making of such investments (and promptly confirmed in writing, as to any such direction given orally); which Permitted Investments shall, as nearly as practicable, mature (or be subject to redemption or disposition by the Trustee) on or before the dates on which such money is anticipated to be needed for disbursement hereunder. In the absence of any such direction from the Authority, the Trustee shall invest any such moneys in money market funds described in clause (d) of the definition of Permitted Investments. Obligations purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account.

The Trustee shall transfer semiannually all investment earnings on amounts in the Principal Account, and the Interest Account to the Lease Revenue Fund. Unless otherwise specified in this Trust Agreement, investment earnings on amounts in all other funds and accounts established and maintained pursuant to this Trust Agreement shall be retained in such respective funds and accounts. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee shall incur no liability for losses arising from any investments made pursuant to this Section.

The Authority acknowledges that regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Authority the right to receive brokerage confirmations of security transactions to be effected by the Trustee hereunder as they occur. The Authority specifically waives the right to receive such notification to the extent permitted by applicable law and agrees that it will instead receive periodic cash transaction statements which include detail for the investment transactions effected by the Trustee hereunder; provided, however, that the Authority retains its right to receive brokerage confirmation on any investment transaction requested by the Authority.

SECTION 4.05. Valuation and Disposition of Investments. For the purpose of determining the amount in any fund or account, Permitted Investments credited to such fund or account shall be valued semiannually at the lower of cost or market value thereof (excluding any brokerage commissions and excluding any accrued interest).

ARTICLE V COVENANTS OF THE AUTHORITY

SECTION 5.01. Punctual Payment. The Authority shall punctually pay or cause to be paid the principal, interest and premium (if any) to become due in respect of all the Bonds, in strict conformity with the terms of the Bonds and of this Indenture, according to the true intent and meaning thereof, but only out of Revenues and other assets pledged for such payment as provided in this Indenture.

SECTION 5.02. Extension of Payment of Bonds. The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of

payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended. Nothing in this Section shall be deemed to limit the right of the Authority to issue Bonds for the purpose of refunding any Outstanding Bonds, and such issuance shall not be deemed to constitute an extension of maturity of the Bonds.

SECTION 5.03. Against Encumbrances. The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues and other assets pledged or assigned under this Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by this Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, including other programs under the Bond Law, and reserves the right to issue other obligations for such purposes.

SECTION 5.04. Power to Issue Bonds and Make Pledge and Assignment. The Authority is duly authorized pursuant to law to issue the Bonds and to enter into this Indenture and to pledge and assign the Revenues, the Sublease and other assets purported to be pledged and assigned, respectively, under this Indenture in the manner and to the extent provided in this Indenture. The Bonds and the provisions of this Indenture are and will be the legal, valid and binding special obligations of the Authority in accordance with their terms, and the Authority and the Trustee (subject to the provisions of Section 6.02 hereof) shall at all times, to the extent permitted by law, defend, preserve and protect said pledge and assignment of Revenues and other assets and all the rights of the Bond Owners under this Indenture against all claims and demands of all persons whomsoever.

SECTION 5.05. Accounting Records and Financial Statements. The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate trust industry standards, in which complete and accurate entries shall be made of all transactions by the Trustee relating to the proceeds of Bonds, the Revenues, the Sublease and all funds and accounts established pursuant to this Indenture. Such books of record and account shall be available for inspection by the Authority and the City during regular business hours with reasonable prior notice.

SECTION 5.06. Additional Obligations. The Authority covenants that no additional bonds, notes or indebtedness shall be issued or incurred that are payable out of the Revenues, except in the case of a refunding of all or a portion of the Bonds.

SECTION 5.07. Sublease. The Trustee, as assignee of the Authority's rights under the Sublease pursuant to Section 4.01 and under the Assignment Agreement, shall receive all amounts due from the City pursuant to the Sublease.

The Authority will faithfully comply with, keep, observe and perform all the agreements, conditions, covenants and terms contained in the Sublease required to be complied with, kept,

observed and performed by it and, together with the Trustee, will enforce the Sublease against the City in accordance with its terms.

The Authority will not alter, amend or modify the Sublease without the prior written consent of the Trustee, which consent shall be given only (i) if the Trustee receives an opinion of Bond Counsel that such alteration, amendment or modification will not result in any material impairment of the security given or intended to be given for the payment of the Base Rental Payments, or (ii) if the Trustee first obtains the written consents of the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding to such alteration, amendment or modification. Prior to any amendment or modification of the Sublease pursuant to this Section 5.07, the Trustee may require the Authority to deliver to the Trustee an opinion of Bond Counsel to the effect that such amendment or modification has been adopted in accordance with the requirements of this Indenture.

In addition to the foregoing, so long as the Bond Insurance Policy is in full force and effect and the Bond Insurer has not defaulted with respect to its payment obligations thereunder, the Authority shall not alter, amend or modify the Sublease without the prior written consent of the Bond Insurer (which consent shall not be unreasonably withheld).

SECTION 5.08. Tax Covenants; Rebate Fund.

(a) In addition to the funds and accounts created pursuant to Articles III and IV, if directed in a Request of the City, the Trustee shall establish and maintain a fund separate from any other fund or account established and maintained hereunder designated as the “Rebate Fund.” Upon the written direction of the City, there shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Tax Certificate. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Certificate), for payment to the United States of America. Notwithstanding the provisions of Article IV and Section 10.03 (relating to the pledge of Revenues, the allocation of money in the Lease Revenue Fund, the investments of money in any fund or account and the defeasance of Bonds), all amounts required to be deposited into or on deposit in the Rebate Fund shall be governed exclusively by this Section 5.08 and by the Tax Certificate (which is incorporated herein by reference). The Trustee shall be deemed conclusively to have complied with such provisions if it follows the Request of the City, and shall have no liability or responsibility to enforce compliance by the Authority or the City with the terms of the Tax Certificate.

(b) The Authority shall not use or permit the use of any proceeds of the Bonds or any funds of the Authority, directly or indirectly, to acquire any securities or obligations, and shall not take or permit to be taken any other action or actions, which would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code or “federally guaranteed” within the meaning of Section 149(b) of the Code and any applicable requirements promulgated from time to time thereunder and under Section 103(c) of the Internal Revenue Code of 1954, as amended. The Authority shall observe and not violate the requirements of Section 148 of the Code and any such applicable regulations. The Authority shall comply with all requirements of Sections 148 and 149(d) of the Code to the extent applicable to the Bonds. In the event that at any time the Authority or the City is of the opinion that for purposes of this Section 5.08(b) it is

necessary to restrict or to limit the yield on the investment of any moneys held by the Trustee under this Indenture, the City or the Authority upon the written request of the City shall so instruct the Trustee in writing, and the Trustee shall take such action as may be necessary in accordance with such instructions.

The Authority shall not use or permit the use of any proceeds of the Bonds or any funds of the Authority or the City, directly or indirectly, in any manner, and shall not take or omit to take any action, that would cause any of the Bonds to be treated as an obligation not described in Section 103(a) of the Code.

(c) Notwithstanding any provision of this Section 5.08, if the Authority or the City shall provide to the Trustee an opinion of Bond Counsel that any specified action required under this Section 5.08 is no longer required or that some further or different action is required to maintain the exclusion from federal income tax of interest on the Bonds, the Trustee, the Authority and the City may conclusively rely on such opinion in complying with the requirements of this section and, notwithstanding Article VII, the covenants hereunder shall be deemed to be modified to that extent.

SECTION 5.09. Further Assurances. The Authority will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Owners of the Bonds the rights and benefits provided in this Indenture.

ARTICLE VI THE TRUSTEE

SECTION 6.01. Appointment of Trustee. BNY Western Trust Company, a state banking corporation duly organized and existing under and by virtue of the laws of the State of California, is hereby appointed Trustee by the Authority for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Indenture. The Authority agrees that it will maintain a Trustee which has (or which is a wholly-owned subsidiary of a corporation which has) a combined capital and surplus of at least \$75,000,000, and which is subject to supervision or examination by Federal or State authority, so long as any Bonds are Outstanding. If such bank or trust company or such parent corporation publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this Section 6.01 the combined capital and surplus of such bank or trust company or such parent corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Trustee is hereby authorized to pay the principal of and interest and redemption premium (if any) on the Bonds when duly presented for payment at maturity, or on redemption prior to maturity, and to cancel all Bonds upon payment thereof. The Trustee shall keep accurate records of all funds and accounts administered by it and of all Bonds paid and discharged.

SECTION 6.02. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(b) Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a Certificate of the Authority.

(c) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Owners pursuant to this Indenture, unless such Owners shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(d) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, facsimile transmission, electronic mail, order bond or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit.

(e) The Trustee, prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no covenants of or against the Trustee shall be implied in this Indenture. In case an Event of Default hereunder or under the Sublease has occurred (which has not been cured or waived), the Trustee may exercise such of the rights and powers vested in it by this Indenture and by the Sublease, and shall use the same degree of care and skill in the exercise of such rights and powers as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(f) The Trustee may execute any of the trusts or powers hereunder and perform the duties required of it hereunder either directly or by or through attorneys or agents, shall not be liable for the acts or omissions of such attorneys or agents appointed with due care, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder. The Trustee may conclusively rely on an opinion of counsel as full and complete authorization and protection for any action taken, suffered or omitted by it hereunder.

(g) The Trustee shall not be responsible for any recital herein, in the Sublease, or in the Bonds, or for any of the supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby and makes no representation as to the validity or sufficiency of the Bonds, this Indenture or the Sublease. The Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Authority hereunder

or on the part of the Authority or the City under the Sublease. The Trustee shall not be responsible for the application by the Authority or the City of the proceeds of the Bonds.

(h) The Trustee may become the Owner or pledgee of Bonds secured hereby with the same rights it would have if not the Trustee; may acquire and dispose of other bonds or evidences of indebtedness of the Authority with the same rights it would have if it were not the Trustee; and may act as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Bonds, whether or not such committee shall represent the Owners of the majority in aggregate principal amount of the Bonds then Outstanding.

(i) The Trustee may rely and shall be protected in acting or refraining from acting, in good faith and without negligence, upon any notice, resolution, opinion, report, direction, request, consent, certificate, order, affidavit, letter, telegram, facsimile transmission, electronic mail or other paper or document believed by it to be genuine and to have been signed or presented by the proper person or persons. Any action taken or omitted to be taken by the Trustee in good faith and without negligence pursuant to this Indenture or the Sublease upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Bond, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof. The Trustee shall not be bound to recognize any person as an Owner of any Bond or to take any action at his request unless the ownership of such Bond by such person shall be reflected on the Registration Books.

(j) The permissive right of the Trustee to do things enumerated in this Indenture or in the Sublease shall not be construed as a duty and it shall not be answerable for other than its negligence or willful default. The immunities and exceptions from liability of the Trustee shall extend to its officers, directors, employees and agents.

(k) The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default hereunder or under the Sublease except failure by the Authority or the City to make any of the payments to the Trustee required to be made by the Authority pursuant hereto or thereto or failure by the Authority or the City to file with the Trustee any document required by this Indenture or the Sublease to be so filed subsequent to the issuance of the Bonds, unless the Trustee shall be specifically notified in writing of such default by the Authority or by the Owners of at least 25 percent in aggregate principal amount of the Bonds then Outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the Trust Office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Event of Default hereunder except as aforesaid.

(l) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, accountants and representatives, shall have the right fully to inspect all books, papers and records of the Authority pertaining to the Bonds, and to make copies of any of such books, papers and records which are not privileged by statute or by law.

(m) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises hereof.

(n) Notwithstanding anything elsewhere in this Indenture with respect to the execution of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, the Trustee shall have the right, but shall not be required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, as may be deemed desirable for the purpose of establishing the right of the Authority to the execution of any Bonds, the withdrawal of any cash or the taking of any other action by the Trustee.

(o) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law.

(p) Whether or not expressly provided therein, every provision of this Indenture and the Sublease relating to the conduct or affecting the liability of the Trustee shall be subject to the provisions of this Section 6.02.

(q) Notwithstanding any other provisions of this Indenture, in determining whether the rights of the Owners will be adversely affected by any action taken pursuant to the terms and provision of this Indenture, the Trustee shall consider the effect on the Owners as if there were no Bond Insurance Policy.

(r) The Trustee shall not be considered in breach of or in default with respect to any obligations created hereunder, in the event of an enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, acts of God, or of the public enemy, acts of a government, acts of the other party hereto, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to governmental action or inaction pertaining to the Project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee; provided, that in the event of any such enforced delay, the Trustee shall notify the Authority in writing within five (5) business days after (i) the occurrence of the event giving rise to such delay, (ii) the Trustee's actual knowledge of the impending enforced delay, or (iii) the Trustee's knowledge of sufficient facts under which a reasonable person would conclude the enforced delay will occur.

SECTION 6.03. Fees, Charges and Expenses of Trustee. The Trustee shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances (with interest on such advances at the maximum rate allowed by law), counsel fees (including expenses) and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. Upon the occurrence of an Event of Default hereunder, but only upon an Event of Default, the Trustee shall have a first lien with right of

payment prior to payment of any Bond upon the amounts held hereunder for the foregoing fees, charges and expenses incurred by it.

SECTION 6.04. Notice to Bond Owners of Default. If an Event of Default hereunder or under the Sublease occurs with respect to any Bonds of which the Trustee has been given or is deemed to have notice, as provided in Section 6.02(k) hereof, then the Trustee shall, within 30 days of the receipt of such notice, give written notice thereof by first class mail to the Owner of each such Bond, unless such Event of Default shall have been cured before the giving of such notice; provided, however, that unless such Event of Default consists of the failure by the Authority to make any payment when due, the Trustee may elect not to give such notice if and so long as the Trustee in good faith determines that it is in the best interests of the Bond Owners not to give such notice.

SECTION 6.05. Intervention by Trustee. In any judicial proceeding to which the Authority or the City is a party that, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners of any of the Bonds, the Trustee may intervene on behalf of such Bond Owners, and subject to Section 6.02(c), shall do so if requested in writing by the Owners of at least 25 percent in aggregate principal amount of such Bonds then Outstanding.

SECTION 6.06. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing, filed with the Trustee and signed by the Owners of a majority in aggregate principal amount of the Outstanding Bonds. The Authority may also remove the Trustee at any time upon 30 days notice, except during the existence of an Event of Default. The Trustee may be removed at any time for any breach of the Trustee's duties set forth herein.

SECTION 6.07. Resignation by Trustee. The Trustee and any successor Trustee may at any time give written notice of its intention to resign as Trustee hereunder, such notice to be given to the Authority and the City by registered or certified mail. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. Upon such acceptance, the Authority shall cause notice thereof to be given by first class mail, postage prepaid, to the Bond Owners at their respective addresses set forth on the Registration Books.

SECTION 6.08. Appointment of Successor Trustee. In the event of the removal or resignation of the Trustee pursuant to Sections 6.06 or 6.07, respectively, the Authority shall promptly appoint a successor Trustee. In the event the Authority shall for any reason whatsoever fail to appoint a successor Trustee within 90 days following the delivery to the Trustee of the instrument described in Section 6.06 or within 90 days following the receipt of notice by the Authority pursuant to Section 6.07, the Trustee may, at the expense of the Authority, apply to a court of competent jurisdiction for the appointment of a successor Trustee meeting the requirements of Section 6.01. Any such successor Trustee appointed by such court shall become the successor Trustee hereunder notwithstanding any action by the Authority purporting to appoint a successor Trustee following the expiration of such 90-day period.

SECTION 6.09. Merger or Consolidation. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company shall meet the requirements set forth in Section 6.01, shall be the successor to the Trustee and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

SECTION 6.10 Concerning any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Authority an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the Request of the Authority, or of the Trustee's successor, execute and deliver an instrument transferring to such successor all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as the Trustee hereunder to its successor. Should any instrument in writing from the Authority be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor Trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority.

SECTION 6.11 Appointment of Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in the case of litigation under this Indenture, and in particular in case of the enforcement of the rights of the Trustee on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction in may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action that may be desirable or necessary in connection therewith, it may be necessary that the Trustee or the Authority appoint an additional individual or institution as a separate trustee or co-trustee. The following provisions of this Section 6.11 are adopted to these ends.

In the event that the Trustee or the Authority appoints an additional individual or institution as a separate trustee or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate trustee or co-trustee but only to the extent necessary to enable such separate trustee or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate trustee or co-trustee shall run to and be enforceable by either of them.

Should any instrument in writing from the Authority be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in

writing shall, on request, be executed, acknowledged and delivered by the Authority. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, shall resign or shall be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

SECTION 6.12 Indemnification; Limited Liability of Trustee. The Authority further covenants and agrees, to the extent permitted by law, to indemnify and save the Trustee and its officers, directors, agents and employees, harmless against any loss, expense and liabilities arising out of or in the exercise and performance of its powers and duties hereunder, including the costs and expenses of defending against any claim of liability, but excluding any and all losses, expenses and liabilities that are due to the negligent or intentional act or omission of the Trustee, its officers, directors or employees. No provision in this Indenture shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability hereunder if it shall have reasonable grounds for believing repayment of such funds or adequate indemnity against such liability or risk is not assured to it. The Trustee shall not be liable for any action taken or omitted to be taken by it in accordance with the direction of the Owners of at least 25 percent in aggregate principal amount of Bonds Outstanding relating to the time, method and place of conducting any proceeding or remedy available to the Trustee under this Indenture or exercising any power conferred upon the Trustee under this Indenture. The obligations of the Authority under this Section shall survive the resignation or removal of the Trustee under this Indenture.

ARTICLE VII MODIFICATION AND AMENDMENT OF THE INDENTURE

SECTION 7.01. Amendment Hereof. This Indenture and the rights and obligations of the Authority and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Indenture which shall become binding upon adoption, without consent of any Bond Owner but subject to the approval of the Bond Insurer of the affected Bonds (if any and only if the Bond Insurance Policy is then in full force and effect), to the extent permitted by law but only for any one or more of the following purposes:

(a) to add to the covenants and agreements of the Authority in this Indenture contained, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or powers herein reserved to or conferred upon the Authority so long as such limitation or surrender of such rights or powers shall not materially adversely affect the Owners of the Bonds;

(b) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture, or in any other respect whatsoever as the Authority may deem necessary or desirable, provided under any circumstances that such modifications or amendments shall not materially adversely affect the interests of the Owners of the Bonds in the reasonable judgment of the Authority;

(c) for any other purpose that does not materially adversely affect the interests of the Owners.

Except as set forth in the preceding paragraph of this Section 7.01, this Indenture and the rights and obligations of the Authority and of the Owners of the Bonds may only be modified or amended at any time by a Supplemental Indenture which shall become binding when (i) if the Bond Insurance Policy is then in full force and effect, the Authority shall have obtained the prior approval of the Bond Insurer of the affected Bonds, and (ii) the written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding are filed with the Trustee. No such modification or amendment shall (I) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to pay the principal, interest or redemption premiums (if any) at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the Owner of such Bond, (II) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (III) modify any of the rights or obligations of the Trustee without its written consent thereto.

SECTION 7.02. Effect of Supplemental Indenture. From and after the time any Supplemental Indenture becomes effective pursuant to this Article VII, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Outstanding Bonds, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Prior to entering into any Supplemental Indenture pursuant to this Section 7.02, the Trustee may require the Authority to deliver to the Trustee an opinion of Bond Counsel to the effect that such Supplemental Indenture has been adopted in accordance with the requirements of this Indenture.

SECTION 7.03. Endorsement or Replacement of Bonds after Amendment. After the effective date of any action taken as hereinabove provided, the Authority may determine that the Bonds shall bear a notation, by endorsement in form approved by the Authority, as to such action, and in that case upon demand of the Owner of any Bond Outstanding at such effective date and presentation of such Owner's Bond for that purpose at the Trust Office of the Trustee, a suitable notation as to such action shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as, in the opinion of the Authority, shall be necessary to conform to such Bond Owners' action shall be prepared and executed, and in that case upon demand of the Owner of any Bond Outstanding at such effective date such new Bonds shall be exchanged at the Trust Office of the Trustee, without cost to each Bond Owner, for Bonds then Outstanding, upon surrender of such Outstanding Bonds.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF BOND OWNERS

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS ARTICLE VIII, SO LONG AS THE BOND INSURANCE POLICY REMAINS IN EFFECT AND THE BOND INSURER HAS NOT DEFAULTED WITH RESPECT TO ITS OBLIGATIONS UNDER THE BOND INSURANCE POLICY, ALL PROVISIONS OF THIS ARTICLE VIII SHALL BE

SUBJECT TO, AND QUALIFIED BY, THE PROVISIONS SET FORTH IN ARTICLE IX HEREOF AND, WITH RESPECT TO ANY SERIES OF ADDITIONAL BONDS, IN THE PROVISIONS SET FORTH IN THE APPLICABLE SUPPLEMENTAL INDENTURE, INCLUDING, WITHOUT LIMITATION, THE BOND INSURER'S RIGHT TO CONSENT TO OR DIRECT CERTAIN TRUSTEE, AUTHORITY, CITY OR OWNER ACTIONS.

SECTION 8.01. Events of Default. The following events shall be Events of Default hereunder:

(a) Default in the due and punctual payment of the principal of or premium on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, or by proceedings for redemption.

(b) Default in the due and punctual payment of any installment of interest on any Bond when and as such interest installment shall become due and payable.

(c) Failure by the Authority to observe and perform any of the covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, other than as referred to in the preceding clauses (a) and (b), for a period of 30 days after written notice, specifying such failure and requesting that it be remedied has been given to the Authority by the Trustee, or to the Authority and the Trustee by the Owners of not less than 25 percent in aggregate principal amount of the Outstanding Bonds; provided, however, that if in the reasonable opinion of the Authority the failure stated in such notice can be corrected, but not within such 30-day period, the Trustee and such Owners shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Authority within such 30-day period and diligently pursued until such failure is corrected.

(d) The filing by the Authority of a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, filed with or without the consent of the Authority, seeking reorganization under the Federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of the Project.

SECTION 8.02. Remedies; No Acceleration. Upon the occurrence of an Event of Default the Trustee shall have the right:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the Authority or any member, officer or employee thereof, in order to compel the Authority or any such member, officer or employee to perform and carry out its or his or her duties under law and the agreements and covenants required to be performed by it or him contained herein;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Trustee; or

(c) by suit in equity upon the happening of an Event of Default to require the Authority and its members, officers and employees to account as the trustee of an express trust.

If an Event of Default shall have occurred and be continuing and if requested so to do by the Owners of at least 25 percent in aggregate principal amount of Outstanding Bonds and indemnified as provided in Section 6.02(c), the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article VIII, as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bond Owners.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bond Owners) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or the Bond Owners hereunder or now or hereafter existing at law or in equity.

No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver or any such Event of Default or acquiescence therein; such right or power may be exercised from time to time as often as may be deemed expedient.

The Trustee shall have no right to declare the principal of or interest on the Bonds to be due and payable immediately.

SECTION 8.03. Application of Revenues and Other Funds After Default. All amounts received by the Trustee pursuant to any right given or action taken by the Trustee under the provisions of this Indenture shall be applied by the Trustee, in the following order upon presentation of the several Bonds, and the stamping thereon of the amount of the payment if only partially paid, or upon the surrender thereof if fully paid:

First, to the payment of the fees, costs and expenses of the Trustee, including reasonable compensation to its agents, attorneys and counsel; and

Second, to the payment of the whole amount of interest on and principal of the Bonds then due and unpaid; provided, however, that in the event such amounts shall be insufficient to pay in full the full amount of such interest and principal, then such amounts shall be applied to the payment of such principal and interest without preference or priority of principal over interest, or interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest.

SECTION 8.04. Power of Trustee to Control Proceedings. In the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in

aggregate principal amount of the Outstanding Bonds hereunder opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation and if the Trustee is indemnified as provided in Section 6.02(c). Any suit, action or proceeding which any Owner of Bonds shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners of Bonds similarly situated and the Trustee is hereby appointed (and the successive respective Owners of the Bonds issued hereunder by taking and holding the same, shall be conclusively deemed so to have appointed it) the true and lawful attorney-in-fact of the respective Owners of the Bonds for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners of the Bonds as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney-in-fact.

SECTION 8.05. Appointment of Receivers. Upon the occurrence of an Event of Default hereunder, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bond Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Revenues and other amounts pledged hereunder, pending such proceedings, with such powers as the court making such appointment shall confer.

SECTION 8.06. Non-Waiver. A waiver of any default or breach of duty or contract by the Trustee or any Bond Owners shall not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission of the Trustee or any Owner of any of the Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy conferred upon the Trustee or Bond Owners by the Bond Law or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee or the Bond Owners, as the case may be.

SECTION 8.07. Rights of Bond Owners. No Owner of any Bond issued hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of 60 days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Bonds of any remedy hereunder; it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to enforce any right under this Indenture, except in the manner herein provided, and that all proceedings at law or in equity to

enforce any provision of this Indenture shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Bonds.

The right of any Owner of any Bond to receive payment of the principal of and interest and premium (if any) on such Bond as herein provided or to institute suit for the enforcement of any such payment, shall not be impaired or affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

SECTION 8.08. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case, the Authority, the Trustee and the Bond Owners shall be restored to their former positions and rights hereunder, respectively, with regard to the Project subject to this Indenture, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

ARTICLE IX BOND INSURANCY POLICY

SECTION 9.01. [To come] .

SECTION 9.02. Suspension or Termination of Rights of Bond Insurer. All rights of the Bond Insurer to direct or consent to actions of the Authority, the City, the Trustee or the Owners under this Indenture or under the Sublease shall be suspended during any period in which the Bond Insurer is in default in its payment obligations under the Bond Insurance Policy (except to the extent of amounts previously paid by the Bond Insurer and due and owing to the Bond Insurer) and shall be of no force or effect in the event the Bond Insurance Policy is no longer in effect or the Bond Insurer asserts that the Bond Insurance Policy is not in effect

ARTICLE X MISCELLANEOUS

SECTION 10.01. Limited Liability of Authority. Notwithstanding anything in this Indenture contained, the Authority shall not be required to advance any moneys derived from any source of income other than the Revenues for the payment of the principal of or interest on the Bonds, or any premiums upon the redemption thereof, or for the performance of any covenants herein contained (except to the extent any such covenants are expressly payable hereunder from the Revenues or otherwise from amounts payable under the Sublease). The Authority may, however advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose and may be used by the Authority for such purpose without incurring indebtedness.

The Bonds shall be revenue bonds, payable exclusively from the Revenues and other funds as in this Indenture provided. The general fund of the Authority is not liable, and the credit of the Authority is not pledged, for the payment of the interest and premiums (if any) on or principal of the Bonds. The Owners of the Bonds shall never have the right to compel the

forfeiture of any property of the Authority except the Revenues and other funds pledged to the payment of the Bonds as provided in this Indenture. The principal of and interest on the Bonds, and any premiums upon the redemption of any thereof, shall not be a legal or equitable pledge, charge, lien or encumbrance upon any property of the Authority or upon any of its income, receipts or revenues except the Revenues and other funds pledged to the payment thereof as provided in this Indenture.

SECTION 10.02. Benefits of Indenture Limited to Parties. Nothing in this Indenture, expressed or implied, is intended to give to any person other than the Authority, the Trustee, the Bond Insurer, the City and the Owners of the Bonds, any right, remedy or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Trustee, the Bond Insurer, the City and the Owners of the Bonds.

SECTION 10.03. Discharge of Indenture. If the Authority shall pay and discharge any or all of the Outstanding Bonds in any one or more of the following ways:

(a) by well and truly paying or causing to be paid the principal of and interest and premiums (if any) on such Bonds, as and when the same become due and payable;

(b) by irrevocably depositing with the Trustee, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established with the Trustee pursuant to this Indenture, is fully sufficient to pay such Bonds, including all principal, interest and redemption premiums (if any); or

(c) by irrevocably depositing with the Trustee or any other fiduciary, in trust, Federal Securities in such amount as an Independent Certified Public Accountant (defined below) shall determine in a written report filed with the Trustee (upon which report the Trustee may conclusively rely) will, together with the interest to accrue thereon and available moneys then on deposit in the funds and accounts established with the Trustee pursuant to this Indenture, be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates; and if such Bonds are to be redeemed prior to the maturity thereof notice of such redemption shall have been mailed pursuant to Section 2.03(d) or provision satisfactory to the Trustee shall have been made for the mailing of such notice, then, at the Request of the Authority, and notwithstanding that any of such Bonds shall not have been surrendered for payment, the pledge of the Revenues and other funds provided for in this Indenture with respect to such Bonds, and all other pecuniary obligations of the Authority under this Indenture with respect to all such Bonds, shall cease and terminate, except only the obligation of the Authority to pay or cause to be paid to the Owners of such Bonds not so surrendered and paid all sums due thereon from amounts set aside for such purpose as aforesaid, and all amounts due the Trustee. Any funds held by the Trustee following any payment or discharge of the Outstanding Bonds pursuant to this Section 10.03, which are not required for said purposes, shall after payment of amounts due the Trustee hereunder be paid over to the Authority.

For the purposes of this Section 10.03, the term "Independent Certified Public Accountant" means any certified public accountant or firm of certified public accountants

appointed and paid by the Authority, and who, or each of whom: (i) is in fact independent and not under domination of the Authority or the City; (ii) does not have any substantial interest, direct or indirect, in the Authority or the City; and (iii) is not connected with the Authority or the City as an officer or employee of the Authority or the City but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.

SECTION 10.04. Successor Is Deemed Included in All References to Predecessor.

Whenever in this Indenture or any Supplemental Indenture the Authority is named or referred to, such reference shall be deemed to include the successor to the powers, duties and functions, with respect to the management, administration and control of the affairs of the Authority, that are presently vested in the Authority, and all the covenants, agreements and provisions contained in this Indenture by or on behalf of the Authority shall bind and inure to the benefit of its successors whether so expressed or not.

SECTION 10.05. Content of Certificates and Opinions. Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture except the certificate of destruction pursuant to Section 10.10 shall include (a) a statement that the person or persons making or giving such certificate or opinion have read such covenant or conditions and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such covenant or condition has been complied with; and (d) a statement as to whether, in the opinion of the signers, such condition or covenant has been complied with.

Any such certificate made or given by an officer of the Authority may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate may be based, as aforesaid, are erroneous, or in the exercise of reasonable care should have known that the same were erroneous. Any such certificate or opinion or representation made or given by counsel may be based, insofar as it relates to factual matters, on information with respect to which is in the possession of the Authority, or upon the certificate or opinion of or representations by an officer or officers of the Authority, unless such counsel knows that the certificate or opinion or representations with respect to the matters upon which his certificate, opinion or representation may be based, as aforesaid, are erroneous, or in the exercise of reasonable care should have known that the same were erroneous.

SECTION 10.06. Execution of Documents by Bond Owners. Any request, consent or other instrument required by this Indenture to be signed and executed by Bond Owners may be in any number of concurrent writings of substantially similar tenor and may be signed or executed by such Bond Owners in person or by their agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and of the Authority if made in the manner provided in this Section 10.06.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument or writing acknowledged to him the execution thereof.

The ownership of Bonds shall be proved by the Registration Books. Any request, consent or vote of the Owner of any Bond shall bind every future Owner of the same Bond and the Owner of any Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in pursuance of such request, consent or vote. In lieu of obtaining any demand, request, direction, consent or waiver in writing, the Trustee may call and hold a meeting of the Bond Owners upon such notice and in accordance with such rules and obligations as the Trustee considers fair and reasonable for the purpose of obtaining any such action.

SECTION 10.07. Disqualified Bonds. In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the City or the Authority (but excluding Bonds held in any employees' retirement fund) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, provided, however, that for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver, only Bonds which the Trustee knows to be so owned or held shall be disregarded.

SECTION 10.08. Waiver of Personal Liability. No officer, agent or employee of the Authority shall be individually or personally liable for the payment of the interest on or principal of the Bonds; but nothing herein contained shall relieve any such officer, agent or employee from the performance of any official duty provided by law.

SECTION 10.09. Partial Invalidity. If any one or more of the covenants or agreements, or portions thereof, provided in this Indenture on the part of the Authority (or of the Trustee) to be performed should be contrary to law, then such covenant or covenants, such agreement or agreements, or such portions thereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of this Indenture or of the Bonds; but the Bond Owners shall retain all rights and benefits accorded to them under the Bond Law or any other applicable provisions of law.

SECTION 10.10 Destruction of Canceled Bonds. Whenever in this Indenture provision is made for the surrender of any Bonds which have been paid or canceled pursuant to the provisions of this Indenture, the Trustee shall cancel and destroy such Bonds and upon Request of the Authority furnish to the Authority a certificate of such destruction.

SECTION 10.11 Funds and Accounts. Any fund or account required by this Indenture to be established and maintained by the Authority or the Trustee may be established and maintained in the accounting records of the Authority or the Trustee, as the case may be, either as a fund or an account, and may, for the purpose of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account. All such

records with respect to all such funds and accounts held by the Authority shall at all times be maintained in accordance with generally accepted accounting principles and all such records with respect to all such funds and accounts held by the Trustee shall be at all times maintained in accordance with corporate trust industry practices; in each case with due regard for the protection of the security of the Bonds and the rights of every Owner thereof.

SECTION 10.12 Payment on Business Days. Whenever in this Indenture any amount is required to be paid on a day that is not a Business Day, such payment shall be required to be made, without accruing additional interest thereby, on the Business Day immediately following such day.

SECTION 10.13 Notices. Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by first class mail, postage prepaid, or sent by facsimile transmission, addressed as follows:

If to the Authority: Morgan Hill Financing Authority
17555 Peak Avenue
Morgan Hill, California 95037
Attention: Chief Administrative Officer
Fax: (408) 779-3117

If to the City: City of Morgan Hill
17555 Peak Avenue
Morgan Hill, California 95037
Attention: City Manager
Fax: (408) 779-3117

If to the Trustee: BNY Western Trust Company
700 S. Flower Street, Suite 500
Los Angeles, CA 90017
Attention: Corporate Trust
Fax: (213) 630-6210

If to the Bond Insurer: _____

Attention: _____
Fax: () - _____

Any party listed above may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to the Indenture; provided, however, that: (i) subsequent to such facsimile transmission of written instructions, there shall be provided to the Trustee originally executed instructions and/or directions in a timely manner, (ii) such originally executed instructions and/or directions by the Authority or the City shall be signed by an authorized officer of the Authority or the City or a person designated and authorized to sign for the

Authority or the City by an authorized officer of the Authority or the City, as the case may be, and, (iii) each of the Authority and the City shall (A) provide to the Trustee an incumbency certificate listing such designated persons and (B) from time to time provide the Trustee updated incumbency certificates, as necessary or appropriate, reflecting persons who have been added or deleted from the listing.

SECTION 10.14 Unclaimed Moneys. Anything in this Indenture to the contrary notwithstanding, any moneys held by the Trustee in trust for the payment and discharge of any of the Bonds that remain unclaimed for two years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Trustee at such date, or for two years after the date of deposit of such moneys if deposited with the Trustee after said date when such Bonds become due and payable, shall be repaid by the Trustee to the Authority, as its absolute property and free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Bond Owners shall look only to the Authority for the payment of such Bonds; provided, however, that before being required to make any such payment to the Authority, the Trustee shall, at the expense of the Authority, cause to be mailed to the Owners of all such Bonds, at their respective addresses appearing on the Registration Books, a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall not be less than 30 days after the date of mailing of such notice, the balance of such moneys then unclaimed will be returned to the Authority.

SECTION 10.15 Governing Law. This Indenture shall be construed and governed in accordance with the laws of the State of California.

SECTION 10.16 Execution in Counterparts. This Indenture may be executed in any number of counterparts. Each of such counterparts shall for all purposes be deemed to be an original and all such counterparts shall together constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be signed by their respective authorized signatories, all as of the day and year first above written.

MORGAN HILL FINANCING AUTHORITY

By _____
Chief Administrative Officer

BNY WESTERN TRUST COMPANY,
as Trustee

By _____
Authorized Officer

EXHIBIT A

[FORM OF BOND]

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the Authority or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

No. R-____

\$

**MORGAN HILL FINANCING AUTHORITY
LEASE REVENUE BOND
(POLICE FACILITY)
Series 2004**

INTEREST RATE	MATURITY DATE	ORIGINAL ISSUE DATE	CUSIP
%	July 15, 20__	July __, 2004	

REGISTERED OWNER: [CEDE & CO.]

PRINCIPAL AMOUNT:

The MORGAN HILL FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the “Authority”), for value received, hereby promises to pay (but only out of the Revenues, as defined in the Indenture hereinafter referred to, and certain other moneys) to the Registered Owner identified above or registered assigns (the “Registered Owner”), on the Maturity Date identified above or any earlier redemption date, the Principal Amount identified above in lawful money of the United States of America; and to pay interest thereon at the Interest Rate identified above in like money from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond (unless this Bond is authenticated on or before an Interest Payment Date and after the last calendar day of the month preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or prior to the last calendar day of the month preceding the first Interest Payment Date, in which event it shall bear interest from the Original Issue Date identified above; provided, however, that if, at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest hereon has previously been paid or made available for payment), payable semiannually on January 15 and July 15 in each year, commencing January 15, 2005 (each an “Interest Payment Date”) until payment of such Principal Amount in full. The Principal Amount hereof is payable by check upon presentation hereof upon maturity or earlier redemption at the principal corporate trust office (the “Trust

Office”) of BNY Western Trust Company, as trustee (the “Trustee”), in Los Angeles, California, or at such other office as the Trustee may designate. Interest hereon is payable by check or draft of the Trustee mailed by first class mail on each Interest Payment Date to the Registered Owner hereof at the address of the Registered Owner as it appears on the registration books of the Trustee as of the last calendar day of the month preceding such Interest Payment Date (except that in the case of a Registered Owner of at least \$1,000,000 in aggregate principal amount, such payment may, at such Registered Owner’s option, be made by wire transfer of immediately available funds in accordance with written instructions provided by such Registered Owner prior to the last calendar day of the month preceding such Interest Payment Date).

This Bond is one of a duly authorized issue of bonds of the Authority designated the “Morgan Hill Financing Authority, Lease Revenue Bonds (Police Facility), Series 2004” (the “Bonds”), limited in principal amount to _____ **Dollars (\$_____)** secured by an Indenture, dated as of July 1, 2004 (the “Indenture”), by and between the Authority and the Trustee. Reference is hereby made to the Indenture and all indentures supplemental thereto for a description of the rights thereunder of the owners of the Bonds, of the nature and extent of the Revenues (as that term is defined in the Indenture), of the rights, duties and immunities of the Trustee and of the rights and obligations of the Authority thereunder; and all of the terms of the Indenture are hereby incorporated herein and constitute a contract between the Authority and the Registered Owner hereof, and to all of the provisions of which Indenture the Registered Owner hereof, by acceptance hereof, assents and agrees.

The Bonds are authorized to be issued pursuant to the provisions of the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4, Chapter 5, Division 7, Title 1 of the Government Code of the State of California (the “Act”). The Bonds are special obligations of the Authority and, as and to the extent set forth in the Indenture, are payable solely from and secured by a first lien on and pledge of the Revenues and certain other moneys and securities held by the Trustee as provided in the Indenture. All of the Bonds are equally secured by a pledge of, and charge and lien upon, all of the Revenues and such other moneys and securities, and the Revenues and such other moneys and securities constitute a trust fund for the security and payment of the principal of and interest on the Bonds. The full faith and credit of the Authority are not pledged for the payment of the principal of or interest or premium (if any) on the Bonds. The Bonds are not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the Authority or any of its income or receipts, except the Revenues and such other moneys and securities as provided in the Indenture.

The Bonds have been issued for the purpose of providing financing for the acquisition and improvement costs of a police facility of the City of Morgan Hill (the “City”). The Authority has entered into a Sublease Agreement, dated as of July 1, 2004 (the “Sublease”) with the City, under which the City is obligated to pay amounts which are anticipated to be sufficient to enable the Authority to pay the principal of and interest on the Bonds.

The Bonds are subject to redemption prior to their respective maturity dates, upon notice as hereinafter provided, as a whole or in part, on any date, from prepaid Base Rental Payments made by the City from funds received by the City due to a taking of the Project (as defined in the Indenture) or any portion thereof under the power of eminent domain or from net proceeds of insurance received for material damage or destruction, defects in title to the Project, under the

circumstances and upon the conditions and terms prescribed in the Indenture and in the Sublease, at a redemption price equal to the sum of the principal amount of the Bonds to be redeemed plus accrued interest thereon to the date fixed for redemption, without premium.

The Bonds maturing on or after July 15, 20__ are also subject to redemption prior to their respective maturity dates, as a whole or in part, from prepayments of Base Rental made at the option of the City under the Sublease, on the date designated by the City (which shall be a date on or after July 15 20__), at the following respective redemption prices (expressed as percentages of the principal amount of the Bonds to be redeemed), plus accrued interest thereon to the date of redemption:

<u>Redemption Date</u>	<u>Redemption Price</u>
July 15, 20__ through July 14, 20__	10_%
July 15, 20__ through July 14, 20__	10_
July 15, 20__ or thereafter	100

The Bonds maturing on July 15, 20__ and July 15, 20__ shall be subject to redemption in part by lot prior to their maturity from sinking account installments, on any July 15 on or after July 15, 20__ and July 15, 20__, respectively at a redemption price equal to the principal amount of the Bonds called for redemption, together with interest accrued thereon to the date of redemption, without premium.

The Trustee on behalf and at the expense of the Authority shall mail (by first class mail) notice of any redemption to the respective owners of any Bonds designated for redemption, at their respective addresses appearing on the registration books maintained by the Trustee, to the Securities Depositories and to one or more Information Services (as such terms are defined in the Indenture), at least 30 but not more than 60 days prior to the redemption; provided, however, that neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall designate the CUSIP numbers, the serial numbers of each maturity or maturities (except that if the event of redemption is of all of the Bonds of such maturity or maturities in whole, the Trustee shall designate such maturities or the maturity in whole without referencing each individual number) of the Bonds to be redeemed, and shall require that such Bonds be then surrendered at the Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue after the redemption date.

The Bonds may be issued in denominations of \$5,000 or any integral multiple thereof. Subject to the limitations and upon payment of the charges, if any, provided in the Indenture, this Bond may be exchanged at the Trust Office of the Trustee for a like aggregate principal amount, interest rate and maturity of fully registered Bonds of other authorized denominations.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Trust Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new fully registered Bond or Bonds, of

authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. The Authority and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Authority and the Trustee shall not be affected by any notice to the contrary. The Trustee shall not be required to register the transfer or exchange of any Bond during the period in which the Trustee is selecting Bonds for redemption or any Bond selected for redemption.

The Indenture and the rights and obligations of the Authority and of the owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time in the manner, to the extent, and upon the terms provided in the Indenture; provided that no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to pay the principal, interest or premiums at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee, all as more fully set forth in the Indenture.

It is hereby certified that all things, conditions and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and statutes of the State of California and by the Act (as such term is defined on the reverse side hereof) and the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Constitution or statutes of the State of California or by the Act.

This Bond shall not be entitled to any benefit under the Indenture (as such term is defined on the reverse side hereof), or become valid or obligatory for any purpose, until the certificate of authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, the Authority has caused this Bond to be executed in its name and on its behalf by the facsimile signatures of its President and Secretary and its seal to be reproduced hereon all as of the Original Issue Date identified above.

MORGAN HILL FINANCING AUTHORITY

By _____
President

Attest:

Secretary

[TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This is one of the Bonds described in the within-mentioned Indenture and registered on the Bond Registration Books.

Date: _____, 20__

BNY WESTERN TRUST COMPANY, as Trustee

By _____
Authorized Signatory

STATEMENT OF INSURANCE

[To come]

[FORM OF ASSIGNMENT]

For value received the undersigned do(es) hereby sell, assign and transfer unto, whose tax identification number is _____, the within-mentioned registered Bond and hereby irrevocably constitute(s) and appoint(s) attorney to transfer the same on the books of the Trustee with full power of substitution in the premises.

Dated:

Signature guaranteed:

NOTE: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

NOTICE: Signature must be guaranteed by a member of an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or other similar program.

Exhibit B

[FORM OF REQUISITION (COSTS OF ISSUANCE)]

REQUISITION NO. ____

with reference to

\$ _____
Morgan Hill Financing Authority
Lease Revenue Bonds
(Police Facility)
Series 2004

I. The Morgan Hill Financing Authority (the "Authority") and the City of Morgan Hill (the "City") hereby requests _____, as trustee (the "Trustee") pursuant to that certain Indenture, dated as of July 1, 2004 (the "Indenture"), by and between the Authority and the Trustee, under the terms of which the above-captioned bonds, to pay from the moneys in the Costs of Issuance Fund established pursuant to the Indenture, the amounts shown on Schedule I attached hereto to the parties indicated in Schedule I.

II. The payees, the purposes for which the costs have been incurred, and the amount of the disbursements requested are itemized on Schedule I hereto.

III. Each obligation mentioned in Schedule I hereto has been properly incurred and is a proper charge against the Costs of Issuance Fund. None of the items for which payment is requested has been reimbursed previously from the Costs of Issuance Fund.

All capitalized terms not defined herein have the meanings ascribed to them in the Indenture.

DATED:

MORGAN HILL FINANCING AUTHORITY

By: _____
[Name]
[Title]

CITY OF MORGAN HILL

By: _____
[Name]
[Title]

Exhibit C

[FORM OF REQUISITION (PROJECT FUND)]

REQUISITION NO. ____
(Project Fund)

with reference to

\$ _____
Morgan Hill Financing Authority
Lease Revenue Bonds
(Police Facility)
Series 2004

I. Pursuant to Section 3.04 of that certain Indenture, dated as of July 1, 2004 (the “Indenture”), by and between the Morgan Hill Financing Authority (the “Authority”) and BNY Western Trust Company, as trustee (the “Trustee”), under the terms of which the above-captioned bonds were issued, the City of Morgan Hill, hereby requests the Trustee, to pay from the moneys in the Project Fund the amounts shown on Schedule I attached hereto to the parties indicated in Schedule I.

II. The payees, the purposes for which the costs have been incurred, and the amount of the disbursements requested are itemized on Schedule I hereto.

III. Each obligation mentioned in Schedule I hereto has been properly incurred and is a proper charge against the Project Fund. None of the items for which payment is requested has been reimbursed previously from such subaccount of the Project Fund.

All capitalized terms not defined herein have the meanings ascribed to them in the Indenture.

DATED:

CITY OF MORGAN HILL

By: _____
[Name]
[Title]

NEW ISSUE – BOOK ENTRY ONLY

RATINGS (____ Insured) : S&P: “AAA”
Moody’s: “Aaa”

In the opinion of Richards, Watson & Gershon, A Professional Corporation, Los Angeles, California, Bond Counsel, based on existing law and assuming compliance with certain covenants set forth in the documents pertaining to the Bonds and requirements of the Internal Revenue Code of 1986, as amended (the “Code”), as described herein, interest on the Bonds is not included in gross income of the owners thereof for federal income tax purposes. In the opinion of Bond Counsel, interest on the Bonds is not treated as an item of tax preference in calculating the federal alternative minimum taxable income of individuals and corporations. Interest on the Bonds, however, is included as an adjustment in the calculation of federal corporate alternative minimum taxable income and may therefore affect a corporation’s alternative minimum tax and environmental tax liabilities. In the further opinion of Bond Counsel, interest on the Bonds is exempt from personal income taxes imposed by the State of California. See “TAX MATTERS” herein.

\$ _____*

MORGAN HILL FINANCING AUTHORITY
LEASE REVENUE BONDS
(POLICE FACILITY)
SERIES 2004

Dated: Date of Delivery

Due: July 15, as shown on the inside front cover

The Morgan Hill Financing Authority (the “Authority”) will issue its Lease Revenue Bonds (Police Facility), Series 2004 (the “Bonds”) under an Indenture of Trust, dated as of July 1, 2004 (the “Indenture”), by and between the Authority and BNY Western Trust Company, as Trustee. Proceeds of the Bonds will be used to (i) assist the City of Morgan Hill (the “City”) in financing a portion of the acquisition and improvement costs of a new police headquarters and related facilities, (ii) fund a reserve account for the Bonds, and (iii) pay certain costs of issuance relating to the Bonds.

The Bonds will be payable solely from and secured by Revenues and certain funds and accounts held under the Indenture. Revenues consist primarily of certain rental payments (“Base Rental Payments”) to be made by the City to the Authority pursuant to a Sublease Agreement, dated as of July 1, 2004 (the “Sublease”), by and between the Authority and the City for subleasing of the Project (as described herein). The City covenants under the Sublease to take such action as necessary to include the Base Rental Payments and Additional Rental (as defined therein, and together with the Base Rental Payments, the “Rental Payments”) in its annual budget and to make all necessary appropriations therefore subject to abatement of such payments.

The Bonds are subject to optional redemption, mandatory sinking account redemption and extraordinary mandatory redemption prior to their maturity as described herein.

The Bonds will be issued in fully registered form and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”). DTC will act as securities depository of the Bonds. Individual purchases of the Bonds may be made in book-entry form only, in denominations of \$5,000 each or any integral multiple thereof. Purchasers will not receive certificates representing their interest in the Bonds purchased. Principal of and interest on the Bonds will be paid directly to DTC by the Trustee. Principal of the Bonds is payable on their maturity dates set forth on the inside cover hereof. Interest on the Bonds is payable on January 15 and July 15 of each year, commencing January 15, 2005. Upon its receipt of payments of principal and interest, DTC is in turn obligated to remit such principal and interest to DTC participants for subsequent disbursement to the beneficial owners of the Bonds as described herein.

THE BONDS ARE LIMITED OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY FROM AND SECURED BY A PLEDGE OF REVENUES AND CERTAIN FUNDS AND ACCOUNTS HELD UNDER THE INDENTURE. THE AUTHORITY HAS NO TAXING POWER. THE OBLIGATION OF THE CITY TO MAKE RENTAL PAYMENTS UNDER THE SUBLEASE DOES NOT CONSTITUTE AN OBLIGATION OF THE CITY WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION. NEITHER THE BONDS NOR THE OBLIGATION OF THE CITY TO MAKE RENTAL PAYMENTS UNDER THE SUBLEASE CONSTITUTES AN INDEBTEDNESS OF THE CITY, STATE OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATIONS.

Scheduled payment of the principal of and interest on the Bonds will be insured by a financial guaranty insurance policies to be issued by _____ simultaneously with the delivery of the Bonds. See “BOND INSURANCE” herein.

[BOND INSURER LOGO]

See the section of this Official Statement entitled “BONDOWNERS’ RISKS” for a discussion of certain of the risk factors that should be considered, in addition to other matters set forth herein, in evaluating the investment quality of the Bonds. This cover page contains information for quick reference only. It is not a summary of this issue. Potential purchasers must read the entire Official Statement to obtain information essential to making an informed investment decision.

The Bonds will be sold by competitive sale, expected to be held on July 14, 2004. See “Appendix G – Form of Official Notice Inviting Bids” herein.

The Bonds are offered when, as and if issued, subject to the approval as to their legality by Richards, Watson & Gershon, A Professional Corporation, Los

Preliminary; subject to change.

Angeles, California, Bond Counsel. Certain legal matters will also be passed on for the Authority by Richards, Watson & Gershon, as Disclosure Counsel. It is anticipated that the Bonds will be available for delivery in book-entry form through the facilities of DTC on or about July 27 2004.

Dated: July __, 2004

* Preliminary; subject to change.

\$ _____ *

**MORGAN HILL FINANCING AUTHORITY
LEASE REVENUE BONDS
(POLICE FACILITY)
SERIES 2004**

MATURITY SCHEDULE

\$ _____ Serial Bonds									
Maturity Date (July 15)	Principal Amount	Interest Rate	Yield	CUSIP[†] ()	Maturity Date (July 15)	Principal Amount	Interest Rate	Yield	CUSIP[†] ()

\$ _____ % Term Bonds due July 15, 20__ Yield: ____% CUSIP _____

\$ _____ % Term Bonds due July 15, 20__ Yield: ____% CUSIP _____

[†] CUSIP Copyright 2003, American Bankers' Association. CUSIP data herein is provided by Standard & Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc. Neither of the Authority nor the City guarantees the accuracy of the CUSIP data.

* Preliminary; subject to change.

No dealer, broker, salesperson or other person has been authorized by the Authority or the City to give any information or to make any representations other than those contained herein. If given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy any Bonds by any person in any jurisdiction in which such offer of solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful for such person to make such an offer, solicitation or sale. This Official Statement is not to be construed as a contract with the purchasers of the Bonds. Statements contained in this Official Statement which involve estimates, forecasts or matter of opinion, whether or not expressly so described herein, are intended solely as such and are not to be construed as a representation of fact.

Certain statements included or incorporated by reference in this Official Statement constitute “forward-looking statements” within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended. Such statements are generally identifiable by the terminology used such as “plan,” “expect,” “estimate,” “budget,” or other similar words and include, but are not limited to, statements under the captions “THE CITY,” “CITY FINANCIAL INFORMATION” and “STATE OF CALIFORNIA BUDGET.” The achievement of certain results or other expectations contained in such forward-looking statements involves known and unknown risks, uncertainties and other factors which may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. While the City has agreed to provide certain on-going financial and other data for a limited period of time (see “CONTINUING DISCLOSURE”), neither the Authority nor the City plans to issue any updates or revisions to those forward-looking statements if or when their expectations or events, conditions or circumstances on which such statements are based change.

The information set forth herein has been obtained from the Authority, the City and other sources that are believed to be reliable, but it is not guaranteed as to its accuracy or completeness. The information and expressions of opinions herein are subject to change without notice, and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Authority or the City since the date hereof. All summaries of the resolutions, the Indenture, laws and statutes or other documents are made subject to the provisions of such documents, respectively, and do not purport to be complete statements of any or all of such provisions.

This Official Statement is submitted in connection with the sale of the Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose.

The Bonds have not been registered under the Securities Act of 1933, as amended, nor has the Indenture been qualified under the Trust Indenture Act of 1939, as amended, in reliance upon an exception from the registration requirements contained in such acts. The Bonds have not been registered or qualified under the securities laws of any state.

IN CONNECTION WITH THE OFFERING OF THE BONDS, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SECURITIES OFFERED HEREBY AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

THE UNDERWRITER MAY OFFER AND SELL BONDS TO CERTAIN DEALERS AND OTHERS AT A PRICE LOWER THAN THE OFFERING PRICE. THE OFFERING PRICE MAY BE CHANGED FROM TIME TO TIME BY THE ORIGINAL PURCHASERS.

**CITY OF MORGAN HILL
SANTA CLARA, CALIFORNIA**

CITY COUNCIL

Dennis Kennedy, *Mayor*
Greg Sellers, *Mayor Pro Tem*
Larry Carr, *Council Member*
Hedy L. Chang, *Council Member*
Steve Tate, *Council Member*

CITY OFFICIALS AND STAFF

J. Edward Tewes, *City Manager*
Michael J. Roorda, *City Treasurer*
Helene Leichter, *City Attorney*
Irma Torrez, *City Clerk*
Jack Dilles, *Director of Finance*

MORGAN HILL FINANCING AUTHORITY

AUTHORITY COMMISSION

Dennis Kennedy, *President*
Greg Sellers, *Vice President*
Larry Carr, *Member*
Hedy L. Chang, *Member*
Steve Tate, *Member*

SPECIAL SERVICES

Bond Counsel and Disclosure Counsel

Richards, Watson & Gershon,
A Professional Corporation
Los Angeles, California

Financial Advisor

RBC Dain Rauscher Inc.
San Francisco, California

Trustee

BNY Western Trust Company
Los Angeles, California

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§ _____ *

**MORGAN HILL FINANCING AUTHORITY
LEASE REVENUE BONDS
(POLICE FACILITY)
SERIES 2004**

INTRODUCTION

This introduction does not purport to be complete, and reference is made to the body of this Official Statement, appendices and the documents referred to herein for more complete information with respect to the matter concerning the Bonds. Potential investors are encouraged to read the entire Official Statement. Capitalized terms used and not defined in this Introduction shall have the meanings assigned to them elsewhere in this Official Statement.

General

This Official Statement, including the cover page, inside cover page and appendices hereto, is provided to furnish information in connection with the sale by the Morgan Hill Financing Authority (the "Authority") of its § _____ * aggregate principal amount Lease Revenue Bonds (Police Facility), Series 2004 (the "Bonds"). The Bonds are being issued pursuant to the provisions relating to the joint exercise of powers found in Chapter 5 of Division 7 of Title 1 of the California Government Code, including the provisions of the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 thereof (the "Bond Law"), and an Indenture of Trust, dated as of July 1, 2004 (the "Indenture"), by and between the Authority and BNY Western Trust Company, as the trustee for the Bonds (the "Trustee"). Proceeds of the Bonds will be used to (i) assist the City of Morgan Hill (the "City") in financing a portion of the acquisition and improvement costs of a new police headquarters and related facilities (the "Project") (see "THE PROJECT"), (ii) fund a reserve account for the Bonds, and (iii) pay certain costs of issuance relating to the Bonds. The Bonds are payable solely from and secured by a pledge of Revenues (defined below) and moneys in certain funds and accounts held under the Indenture. Revenues consist primarily of certain rental payments ("Base Rental Payments") to be made by the City to the Authority pursuant to a Sublease Agreement, dated as of July 1, 2004 (the "Sublease"), by and between the Authority and the City for subleasing of the Project. See "Security for the Bonds" below.

Interest on the Bonds is payable on January 15 and July 15 of each year, commencing January 15, 2004. The Bonds will mature in the amounts and on the dates and bear interest at rates shown on the cover of this Official Statement.

The Bonds will be issued in fully registered form only and, when issued and delivered, will be registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York ("DTC"). DTC will act as the depository for the Bonds and all payments due on the Bonds will be made to Cede & Co. Ownership interests in the Bonds may be purchased only in book-entry form. See "THE BONDS – Book-Entry Only System" and "APPENDIX D – DTC'S BOOK-ENTRY ONLY SYSTEM."

The Authority has awarded the Bonds to _____ in a competitive sale held on July 14, 2004.* _____ will act as the original underwriter for the Bonds. See "UNDERWRITING."

* Preliminary; subject to change.

Bond Insurance

Payment of the principal of and interest on the Bonds, when due, will be insured by a municipal bond insurance policy (the “Bond Insurance Policy”) to be issued concurrently with the delivery of the Bonds by _____. See “BOND INSURANCE” and “APPENDIX F – SPECIMEN OF BOND INSURANCE POLICY.”

Security for the Bonds

The Bonds will be payable solely from and secured by Revenues and certain funds and accounts held under the Indenture. Revenues consist primarily of Base Rental Payments to be made by the City to the Authority pursuant to the Sublease. Pursuant to an Assignment Agreement, dated as of July 1, 2004 (the “Assignment Agreement”), by and between the Authority and the Trustee, the Authority has assigned to the Trustee for the benefit of the Owners of the Bonds, certain of its rights under the Sublease, including its rights to receive Base Rental Payments for the purpose of securing the payment of debt service on the Bonds. The City covenants under the Sublease to take such action as necessary to include the Base Rental Payments and Additional Rental (as defined therein, and together with the Base Rental Payments, the “Rental Payments”) in its annual budget and to make all necessary appropriations therefor (subject to abatement under certain circumstances described in the Sublease).

A Reserve Account will be established and maintained by the Trustee pursuant to the Indenture. Upon issuance of the Bonds, the Trustee will deposit \$_____ from the sale proceeds of the Bonds into the Reserve Account, which amount is equal to the initial Reserve Requirement (defined below). Base Rental Payments payable by the City under the Sublease are calculated to be sufficient to permit the Authority to pay the principal of, and interest on, the Bonds when due. However, under the certain circumstances, Base Rental Payments may be abated under the Sublease without constituting a default. Pursuant to the Indenture, money in the Reserve Account will be used by the Trustee to replenish the Interest Account and/or the Principal Account in the event of deficiency in such accounts for payment of interest and/or principal of the Bonds.

The Bonds are subject to extraordinary redemption, in whole, from a condemnation award or from insurance proceeds as described in the Sublease.

THE BONDS ARE LIMITED OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY FROM AND SECURED BY A PLEDGE OF REVENUES AND CERTAIN FUNDS AND ACCOUNTS HELD UNDER THE INDENTURE. THE AUTHORITY HAS NO TAXING POWER. THE OBLIGATION OF THE CITY TO MAKE RENTAL PAYMENTS UNDER THE SUBLEASE DOES NOT CONSTITUTE AN OBLIGATION OF THE CITY WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION.

See “SECURITY FOR THE BONDS” and “BONDOWNERS’ RISKS.”

The City

The City is located in Santa Clara County, California (the “County”), against the foothills of the Coastal Ranges near the southern end of the Santa Clara Valley. The City lies about 70 miles south of San Francisco and 20 miles south of San Jose, and sits cradled in a long narrow valley floor between the Santa Cruz Mountains on the west and Mount Hamilton Range on the east. The City was incorporated in November 1906, as a general law city and operates under a Council-Manager form of government. The five members of the City Council, including the Mayor, are elected at large. From approximately 5,600

residents in 1970, the City has grown to a population of approximately 35,500 as of January 1, 2004, according to State of California Department of Finance estimates. See "THE CITY" for more information about the City.

Professionals Involved in the Offering

BNY Western Trust Company, Los Angeles, California, will act as Trustee with respect to the Bonds.

RBC Dain Rauscher Inc., San Francisco, California, has served as Financial Advisor to the Authority and the City in connection with the Bonds and has assisted the Authority and the City in structuring the Bonds.

All proceedings in connection with the issuance of the Bonds are subject to the approval of Richards, Watson & Gershon, A Professional Corporation, Los Angeles, California, Bond Counsel. Certain legal matters will also be passed on for the Authority by Richards, Watson & Gershon, as Disclosure Counsel. The fees and expenses of the Financial Advisor, Bond Counsel and Disclosure Counsel are contingent upon the sale and delivery of the Bonds.

Continuing Disclosure

The City has covenanted in a Continuing Disclosure Agreement to prepare and deliver an annual report to certain national and state repositories and to provide certain other information. See "CONTINUING DISCLOSURE" and "APPENDIX E – FORM OF CONTINUING DISCLOSURE AGREEMENT."

Summaries of Documents

There follows in this Official Statement descriptions of the Bonds, the Indenture, the Sublease, the Authority, the City and various other agreements and documents. The descriptions and summaries of documents herein do not purport to be comprehensive or definitive, and reference is made to each such document for the complete details of all terms and conditions. All statements herein are qualified in their entirety by reference to each such document and, with respect to certain rights and remedies, to laws and principles of equity relating to or affecting creditors' rights generally. Capitalized terms not defined herein shall have the meanings set forth in the Indenture. Copies of the Indenture and the Sublease are available for inspection during business hours at the corporate trust office of the Trustee in Los Angeles, California.

Other Information

This Official Statement speaks only as of its date as set forth on the cover hereof, and the information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall under any circumstances create any implication that there has been no change in the affairs of the Authority or the City since the date hereof.

Unless otherwise expressly noted, all references to internet websites in this Official Statement, including without limitation, the City's website, are shown for reference and convenience only, and none of their content is incorporated herein by reference. The information contained within such websites has not been reviewed by the City and the City makes no representation regarding the information therein.

THE PROJECT

The Bonds are being sold by the Authority to assist the City with the financing of a portion of the acquisition and improvement costs of a new police headquarters and related facilities to be located at 16200 Vineyard Boulevard of the City (the "Site"). The City will use the proceeds from the sale of the Bonds, together with approximately \$1.2 million collected from police impact mitigation fees and \$1.7 million from the City's General Fund, to acquire the land and an approximately 43,000 square feet industrial building on the Site. Since July 2003, the City has leased the property from the existing owner and has hired contractors to improve and convert the building into a state of the art police facility. The improvements were completed in [early July 2004]. [The City has begun using the building as its police department's central facility].

Concurrently with the issuance of the Bonds, the Authority will lease the Site and the improvements thereon (collectively, the "Project") from the City under a Lease Agreement. Under the Sublease, the City will sublease the Project from the Authority and agree to make Rental Payments.

SOURCES AND USES OF FUNDS

The following table shows the estimated sources and uses of the proceeds from the sale of the Bonds:

Sources:

Par amount of the Bonds	\$. *
[Less/Plus]: Original issue [discount/premium]	
Less: Underwriter's discount	
Total Sources	

Uses:

Project Fund	\$.
Costs of Issuance ⁽¹⁾	
Reserve Account	
Total Uses	<u>\$.</u>

- (1) Costs of Issuance include premium for the Bond Insurance Policy, fees and expenses for Bond Counsel, Disclosure Counsel, Financial Advisor, Trustee, printing expenses and other costs.

* Preliminary; subject to change.

ANNUAL DEBT SERVICE

The following table shows the scheduled annual debt service for the Bonds:

Bond Year Ending July 15	<u>Principal</u>	<u>Interest</u>	<u>Total Annual Debt Service</u>
2005			
2006			
2007			
2008			
2009			
2010			
2011			
2012			
2013			
2014			
2015			
2016			
2017			
2018			
2019			
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			

THE BONDS

General

The Bonds will be issued in the aggregate principal amount and will mature on the dates and bear interest at the rates per annum as set forth on the inside front cover of this Official Statement. The Bonds will be issued in authorized denominations of \$5,000 each or integral multiples thereof and will be dated their date of delivery. Interest on the Bonds will be calculated on the basis of a 360-day year of twelve 30-day months and payable on January 15 and July 15 of each year, commencing January 15, 2005 (each an "Interest Payment Date"), until maturity or earlier redemption thereof. The Bonds will be initial delivered as one fully registered certificate for each maturity and will be delivered by means by the book-entry system of DTC. See "Book-Entry Only System" below.

Redemption

Optional Redemption.* The Bonds maturing before July 15, 20__ are not subject to optional redemption. The Bonds maturing on or after July 15, 20__ will be subject to redemption at the option of the Authority, as a whole or in part, from prepayments of Base Rental Payments made at the option of the City under the Sublease on any date with respect to which such prepayment have been made (which shall be on or after July 15, 20__). The Bonds so called for optional redemption will be redeemed at the following respective redemption prices (expressed as a percentage of the principal amount of the Bonds to be redeemed), plus accrued interest thereon to the date of redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
July 15, 20__ through July 14, 20__	10 %
July 15, 20__ through July 14, 20__	10
July 15, 20__ and thereafter	100

Extraordinary Redemption. The Bonds are subject to extraordinary mandatory redemption as a whole on any date from prepaid Base Rental Payments made by the City from a condemnation award or from insurance proceeds as described in the Sublease, at par, plus accrued interest, if any, to the date of redemption, without premium.

Sinking Account Redemption.* The Bonds maturing on July 15, 20__, and the Bonds maturing on July 15, 20__ are subject to redemption in part by lot from sinking account payments made by the Authority, at a redemption price equal to the principal amount thereof to be redeemed with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following tables; provided, however, if some but not all of the term Bonds of a maturity have already been optionally redeemed, each future sinking account payment with respect to such term Bonds will be reduced on a pro rata basis (as nearly as practicable) in integral multiples of \$5,000, so that the total amount of sinking account payments with respect to such term Bonds to be made subsequent to an optional redemption shall be reduced by an amount equal to the principal amount of the term Bonds so redeemed, all to be designated pursuant to written notice filed by the Authority with the Trustee:

* Preliminary; subject to change.

Term Bonds Maturing on July 15, 20

<u>Redemption Date</u>	<u>Principal Amount to be Redeemed</u>
------------------------	--

Term Bonds Maturing on July 15, 20

<u>Redemption Date</u>	<u>Principal Amount to be Redeemed</u>
------------------------	--

In lieu of a sinking account redemption as described above, the Trustee may apply amounts in the Principal Account to purchase term Bonds at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as may be directed by the Authority, except that the purchase price (exclusive of accrued interest) may not exceed the redemption price then applicable to such Bonds, as set forth in writing by the Authority; provided, however, that no term Bonds shall be purchased by the Trustee with a settlement date more than 60 days prior to the date on which the Authority would otherwise redeem such term Bonds. The principal amount of any term Bonds so purchased by the Trustee will be credited towards and will reduce the Principal Account payment otherwise required to be made with respect to such term Bonds on the applicable redemption date.

Notice of Redemption. Notice of redemption will be sent not less than 30 nor more than 60 days prior to the redemption date, to each of the registered owners of the Bonds designated for redemption at their addresses appearing on the Bond registration books of the Trustee. Such notice shall also be given to the Securities Depositories and to one or more of the Information Services. Neither failure to receive such notice nor any defect in the notice so mailed will affect the sufficiency of the proceedings for the redemption of any Bonds or the cessation of interest thereon on the redemption date.

Selection of Bonds for Redemption. Whenever provision is made in the Indenture for less than all of the Bonds of any maturity to be redeemed, the Trustee will select the Bonds to be redeemed from all Bonds not previously called for redemption, among maturities (unless the maturity or maturities are otherwise specified in the Indenture or by the Authority), and by lot within a maturity, in any manner which the Trustee in its discretion shall deem appropriate. For purposes of such selection, all Bonds will be deemed to be comprised of separate \$5,000 portions and such portions will be treated as separate bonds which may be separately redeemed.

Effect of Redemption. If notice of redemption has been duly given as aforesaid and money for the payment of the redemption price of the Bonds called for redemption has been duly provided, such Bonds so called will cease to be entitled to any benefit under the Indenture other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date specified in such notice.

Book-Entry Only System

The Bonds will be issued as one fully registered bond without coupons for each maturity of each series and, when issued, will be registered in the name of Cede & Co., as nominee of DTC. DTC will act as securities depository of the Bonds. Individual purchases may be made in book-entry form only, in the principal amount of \$5,000 and integral multiples thereof. Purchasers will not receive certificates representing their interest in the Bonds purchased. Principal and interest will be paid to DTC, which will in turn remit such principal and interest to its participants for subsequent disbursement to the beneficial owners of the Bonds as described herein. So long as DTC's book-entry system is in effect with respect to the Bonds, notices to Owners of the Bonds by the Authority or the Trustee will be sent to DTC. Notices and communication by DTC to its participants, and then to the beneficial owners of the Bonds, will be governed by arrangements among them, subject to then effective statutory or regulatory requirements. See "APPENDIX D – DTC'S BOOK-ENTRY ONLY SYSTEM."

In the event that such book-entry system is discontinued with respect to the Bonds, the Authority will execute and deliver replacements in the form of registered certificates and, thereafter, the Bonds will be transferable and exchangeable on the terms and conditions provided in the Indenture. In addition, the following provisions would then apply: The principal of, and redemption premium, if any, on the Bonds will be payable on the surrender thereof at maturity or the redemption date, as applicable, at the corporate trust office of the Trustee in Los Angeles, California. The interest on the Bonds will be payable by check mailed or draft on each Interest Payment Date to the registered owners thereof as shown on the registration books of the Trustee as of the close of business on the Record Date (*i.e.*, last calendar day of the month preceding the Interest Payment Date) immediately prior to such Interest Payment Date; provided, that a registered owner of 1,000,000 or more in aggregate principal amount of Bonds may specify in writing prior to the Record Date that the interest payment payable on each succeeding Interest Payment Date be made by wire transfer.

SECURITY FOR THE BONDS

Pledge of Revenues

The Bonds are payable from and secured by a pledge of Revenues and certain funds and accounts established and held by the Trustee under the Indenture. Revenues, as defined in the Indenture, means (a) all Base Rental Payments payable by the City pursuant to the Sublease (including prepayments); (b) any proceeds of the Bonds originally deposited with the Trustee and held by the Trustee in the Lease Revenue Fund and the accounts thereof; (c) investment income with respect to any moneys held by the Trustee in the Lease Revenue Fund and the accounts thereof (other than amounts that may be payable to the United States of America for rebate purposes); and (d) any insurance proceeds or condemnation awards received by or payable to the Trustee with respect to the Project pursuant to the Sublease, including rental interruption insurance.

As security for the Bonds, the Authority will assign to the Trustee for the payment of the Bonds the Authority's rights, title and interest in the Sublease (with certain exceptions), including the right to receive Base Rental Payments to be made by the City under the Sublease.

THE BONDS ARE LIMITED OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY FROM AND SECURED BY A PLEDGE OF REVENUES AND CERTAIN FUNDS AND ACCOUNTS HELD UNDER THE INDENTURE. THE AUTHORITY HAS NO TAXING POWER. THE OBLIGATION OF THE CITY TO MAKE RENTAL PAYMENTS UNDER THE SUBLEASE DOES NOT CONSTITUTE AN OBLIGATION OF THE CITY WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR

PLEGGED ANY FORM OF TAXATION. NEITHER THE BONDS NOR THE OBLIGATION OF THE CITY TO MAKE RENTAL PAYMENTS UNDER THE SUBLEASE CONSTITUTES AN INDEBTEDNESS OF THE CITY, STATE OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATIONS.

Base Rental Payments; Covenant to Appropriate

The City has agreed, under the Sublease, to make Base Rental Payments for the subleasing of the Project. Amounts of the scheduled Base Rental Payments are calculated to be sufficient to pay debt service on the Bonds. Base Rental Payments will be paid by the City semiannually to the Trustee before each Interest Payment Date. Upon receipt, the Trustee will deposit the Base Rental Payments in the Lease Revenue Fund for the purpose of paying principal of and interest on the Bonds. The City has covenanted under the Sublease to take such action as may be necessary to include all Base Rental Payments and Additional Payments (consisting of certain administrative costs due to the Authority and the Trustee under the Sublease) in its annual budget and to make the necessary annual appropriations for all such rental payments. Under certain circumstances described under the Sublease, however, Base Rental Payments are subject to abatement during periods of substantial interference with the City's use and occupancy of the Project or any portion thereof. See "Abatement; Insurance" below.

Abatement; Insurance

The Sublease provides that the obligation of the City to pay Base Rental Payments will be abated during any period in which, by reason of any damage, destruction or condemnation, there is substantial interference with the use and occupancy of the Project or any portion thereof by the City. Such abatement will be in an amount agreed upon by the City and the Authority such that the resulting Base Rental Payments in any year during which such interference continues does not exceed the fair rental value of the portions of the Project as to which such damage, destruction or taking do not substantially interfere with the City's use and right of possession. Such abatement will continue for the period commencing with the date of such interference and ending with the restoration of the Project to tenantable condition. The City has waived any right to terminate the Sublease by virtue of such damage, destruction or condemnation.

In the event of an abatement of Base Rental Payments, debt service on the Bonds may, to a certain limited extent, be covered by insurance proceeds. The City is required under the Sublease to procure and maintain rental interruption insurance, throughout the term of the Sublease, to cover loss, total or partial, of the use of any part of the Project as the result of fire, extended coverage, vandalism, malicious mischief and other perils described in the Sublease and the resulting loss of rental income to the Trustee in an amount sufficient to pay the maximum remaining principal and interest portions of Base Rental Payments due under the Sublease during a period equal to the greater of (i) 12 months, and (ii) in the event of damage or destruction to the Project, the period certified by the City to be reasonably required to rebuild or reconstruct the Project. The Net Proceeds of such insurance will be paid to the Trustee for deposit in the Lease Revenue Fund and shall be credited towards the payment of Base Rental Payments in the order in which such Base Rental Payments become due and payable.

In addition, if (a) the Project is destroyed (in whole or in part) or is damaged by fire of other casualty, or (b) title to, or the temporary use of, any portion of the Project or the estate of the Authority or the City in the Project or any portion shall be taken under the exercise of the power of eminent domain by any governmental body or by any person or firm or corporation acting under governmental authority, and if the proceeds of any insurance or the condemnation award received by the City relating thereto (together with any other money that the City in its sole discretion has determined to use for such purpose) are at least sufficient to redeem all of the then Outstanding Bonds, then the City may elect to use such proceeds

to prepay all of the remain Base Rental Payments and cause an extraordinary redemption of all of then Outstanding Bonds. See “THE BONDS – Redemption – *Extraordinary Redemption*.”

See also “BONDOWNERS’ RISKS – Abatement” and “– Risk of Uninsured Loss.”

Reserve Account

To further secure the payment of principal of and interest on the Bonds, a Reserve Account will be established and maintained by the Trustee in an amount equal to the Reserve Requirement. The Reserve Requirement, as defined in the Indenture, means as of any date of calculation, the least of (i) 10 percent of the proceeds of the sale of the Bonds (within the meaning of the Internal Revenue Code of 1986, as amended); (ii) 125 percent of Average Annual Debt Service; or (iii) Maximum Annual Debt Service.

Upon issuance of the Bonds, the Trustee will deposit \$_____ from the sale proceeds of the Bonds into the Reserve Account, which amount is equal to the initial Reserve Requirement. On or before each Interest Payment Date, after the required deposits to the Principal Account and Interest Account have been made, the Trustee will deposit Revenues in the Reserve Account in such amount as may be necessary to maintain a balance therein equal to the Reserve Requirement. Except as otherwise expressly provided in the Indenture, all money in the Reserve Account will be used and withdrawn by the Trustee for the purpose of replenishing the Interest Account and the Principal Account in the event of any deficiency at any time in either of such accounts or for the purpose of paying the interest on or principal of or redemption premiums, if any, on the Bonds, or for the retirement of all Bonds then Outstanding. Any amount in the Reserve Account in excess of the Reserve Requirement will be transferred to the Lease Revenue Fund.

Substitution of Property

Pursuant to the Sublease, the Project may be substituted, in whole or in part, by other properties, at the option of the City; upon satisfaction of certain conditions, including, among others: (i) such substitution does not, in the opinion of Bond Counsel, adversely affect the tax-exempt status of the Bonds; (ii) the City certifies to the Authority and the Trustee that the fair rental value of the substituted property is at least equal to the Base Rental Payments each year for the remaining term of the Sublease; (iii) the City has been advised by the rating agencies then rating the Bonds that such substitution will not, in and of itself, result in a reduction of such ratings on the Bonds; (iv) in the event that the substituted property consists in whole or in part of real property, a California Land Title Association insurance policy (or, at the City’s sole discretion, an American Land Title Association insurance policy) on the substituted property has been obtained and evidence that any existing title insurance with respect to the portion of the Project remaining after such substitution is not affected.

Additional Bonds

The Authority has covenanted in the Indenture that no additional bonds, notes or indebtedness shall be issued or incurred that are payable out of the Revenues, except in the case of a refunding of all or a portion of the Bonds.

BOND INSURANCE

The following information has been furnished by _____ for use in this Official Statement. Such information has not been independently confirmed or verified by the Authority or the City. The Authority and the City make no representation as to the accuracy or adequacy of such

information or as to the absence of material adverse changes in such information subsequent to the date hereof. Reference is made to Appendix F for a specimen of the Bond Insurance Policy.

[to come]

THE CITY

General

Located against the foothills of the Coastal Ranges near the southern end of the Santa Clara Valley in the southern part of the County, the City is located 70 miles south of San Francisco and 20 miles south of San Jose. The City is bordered by San Martin and Gilroy to the south, San Jose to the north, and unincorporated county land to the east and west. The City encompasses an area of approximately 12 square miles with an average elevation of 345 feet above sea level. With a January average low temperature of 41 degrees Fahrenheit and a July average high temperature of 82 degrees Fahrenheit, the City enjoys comfortable weather throughout the year.

The City is well served by area transportation routes and offers convenient access to several airports. U.S. 101, a major north-south highway, runs through the City, linking the Santa Clara Valley with San Francisco, 70 miles to the north, and with Los Angeles, 380 miles to the South. San Jose International Airport is 25 miles to the north of the City. Other airports within convenient access to the City include San Francisco International, Oakland International, and Monterey Airport. The City is 70 miles south of major deep water seaports at San Francisco and Oakland.

The City provides a broad range of services, including police protection, development and housing, water and sanitation services, streets and parks construction and maintenance, planning, engineering, code enforcement, recreation, general city administration, and support services. The City has contracted with the County to provide fire protection services and with South Valley Disposal and Recycling to provide solid waste collection services. Pacific Gas & Electric Company provides natural gas and electric power to the City.

City Government

Incorporated on November 10, 1906 as a general law city, the City currently functions under a Council/Manager form of Government. A five member City Council, including the Mayor, is elected at large. The City Treasurer and the City Clerk are also elected at large. The City currently employs approximately 156 permanent employees.

The current members of the City Council are as follows:

<u>Name and Office</u>	<u>Current Term Expires</u>
Dennis Kennedy, <i>Mayor</i>	November 2004
Greg Sellers, <i>Mayor Pro Tem</i>	November 2006
Larry Carr, <i>Council Member</i>	November 2004
Hedy L. Chang, <i>Council Member</i>	November 2004
Steve Tate, <i>Council Member</i>	November 2006

The City Manager is appointed by the City Council. Below are brief biographies of the City Manager and the Finance Director:

J. Edward Tewes, City Manager. Mr. Tewes was appointed City Manager of the City in January 2000, bringing over 30 years of municipal management experience in four California communities. He earned a Bachelor's of Arts degree in political science from Claremont Men's College in 1972, and a Masters of Public Administration degree from the University of Southern California in 1974. Mr. Tewes is a member of the International City/County Management Association. He is currently a member, and in the past served as the President, of the Board of Directors of the California Redevelopment Association.

Jack Dilles, Director of Finance. Mr. Dilles was appointed Director of Finance of the City in April 2000, bringing over 20 years of governmental financial and management experience. He earned a Bachelor's of Science degree in business administration in 1977 and a Masters of Business Administration degree in 1988, both from San Jose State University. Mr. Dilles is a member of the Governmental Finance Officers Association ("GFOA"), California State Municipal Finance Officers, and California Municipal Treasurers Association. He is a Certified Public Finance Officer, conferred by the GFOA.

Population

The City's population was approximately 35,500 as of January 1, 2004, according to the California State Department of Finance's estimates. The table below shows the population growth in the City and the County from January 1, 1995 through January 1, 2004:

TABLE 1
City of Morgan Hill
City and County Population
Calendar Years 1995 through 2004

<u>Year ⁽¹⁾</u>	<u>City</u>		<u>County</u>	
	<u>Population</u>	<u>Growth Rate</u>	<u>Population</u>	<u>Growth Rate</u>
1995	28,100	4.07%	1,568,200	0.62%
1996	29,300	4.27	1,586,400	1.16
1997	30,750	4.95	1,612,700	1.66
1998	31,850	3.58	1,658,000	2.81
1999	33,200	4.24	1,679,200	1.28
2000	33,556	1.07	1,682,585	0.20
2001	34,250	2.07	1,704,500	1.30
2002	34,750	1.46	1,716,100	0.68
2003	34,750	0.00	1,719,500	0.20
2004	35,500	2.16	1,731,400	0.69

(1) As of January 1 of each year.

Source: State of California, Department of Finance.

Residential Development Control System. A voter-approved growth management system, known as the Residential Development Control System ("RDCS"), was enacted by the City's voters in 1977, as Measure E. It was later updated in 1990, as Measure P, and in March 2004, as Measure C. Measure C, among other things, extended the expiration of the RDCS through the end of fiscal year 2020. The RDCS is embodied in Chapter 18.78 of the City's Municipal Code, as well as the City's General Plan and Zoning Ordinance. Generally, the RDCS regulates growth by limiting the number of new homes to be built each year, according to a point system based on a variety of factors including provision of public services, site planning and architectural design considerations. Measure C establishes a population ceiling of 48,000 in the City through the end of fiscal year 2020. Measure C may not be amended except by another public vote.

Recent Regional Development

During the second half of the 1990's, many areas in and surrounding the County, dubbed as the "Silicon Valley," experienced significant economic expansion, largely driven by unprecedented growth in the high-technology and information industries. Situated at the southern portion of the County, the City was not traditionally considered as part of the "core areas" of the Silicon Valley (which were concentrated in the northern part of the County). During the boom period, however, development in the Silicon Valley expanded in various directions, and reached as far south as the City. The expansion brought tremendous capital investment and generated a high demand for residential, commercial and industrial spaces, resulting in significant increases in real estate prices. As shown in the table under the caption "Employment" below, for the 2000 calendar year, the County's monthly average unemployment rate

reached as low as 2 percent and the City's monthly average unemployment rate was 1.5 percent for the same period, according to statistics published by the California Economic Development Department.

By the latter half of 2000, the economy in the country overall, but in particular the Silicon Valley, entered into a major correction period. Many corporations in and around Silicon Valley reduced their workforces and cut back on spending and capital investment. Some well-known "dot-coms," including Webvan (based in Foster City) and Excite@Home (based in Redwood City), filed for bankruptcy. The County's unemployment rate jumped to a monthly average of 8.3 percent in 2002. The City's unemployment rate also climbed to a monthly average of 6.6 percent in 2002. From mid-2003 through the first quarter of 2004, the economy appears to show signs of recovery. The preliminary estimated May 2004 unemployment rate of the County was 5.9 percent and that of the City was 4.7 percent. However, the City cannot provide any assurance or make any representation regarding the continued recovery of the economy in the region.

Employment

According to the State of California Employment Development Department, the City's preliminary, estimated unemployment rate for May 2004 was 4.7 percent. The following table shows certain employment statistics for the City and the County for calendar years 1994 through 2003.

TABLE 2
City of Morgan Hill
City and County Employment Statistics
Calendar Years 1994 through 2003 ⁽¹⁾

<u>Year</u>	<u>City</u>			<u>County</u>
	<u>Labor Force</u>	<u>Employed</u>	<u>Unemployment Rate</u>	<u>Unemployment Rate</u>
1994	12,960	12,320	4.9%	6.2%
1995	13,080	12,570	3.9	4.9
1996	13,540	13,160	2.8	3.6
1997	14,210	13,870	2.4	3.0
1998	14,530	14,160	2.5	3.2
1999	14,630	14,280	2.4	3.0
2000	15,220	14,980	1.5	2.0
2001	15,180	14,640	3.6	4.6
2002	14,370	13,410	6.6	8.4
2003	13,410	12,540	6.5	8.2

(1) Not seasonally adjusted. Figures represent the 12-month average for each such year.

Source: State of California, Employment Development Department.

The following table lists the major area employers in the City.

TABLE 3
City of Morgan Hill
Major Area Employers
as of June 30, 2003

<u>Company</u>	<u>Product/Service</u>	<u>Full-Time Employees</u>
Morgan Hill Unified School District	Education	980
Abbot Laboratories	Pharmaceuticals and medical products	602
Anritsu Company	Telecommunication products and services	498
Comcast Cable Communications	Cable networks and communication systems	397
EDO Reconnaissance & Surveillance Systems Inc.	Electronic military defense systems	307
Fox Racing	Motocross apparel and gear	288
Paramit Corporation	Specialized electronic manufacturing services	229
Specialized Bicycle Components	Bicycle equipment and accessories	217
Media Arts Group	Art canvas, reproductions and related products	202
Safeway	Grocery store	177

Source: City of Morgan Hill.

The following table shows the distribution of the labor force in the County from 1999 through 2003.

TABLE 4
Santa Clara County (San Jose PMSA)
Annual Average Employment by Industry
Calendar Years 1999 through 2003

<u>Industry</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Private, non-farm					
<i>Goods producing:</i>					
Natural resources, mining	200	200	200	200	200
Construction	44,600	47,400	47,800	42,300	38,800
Manufacturing – durable goods	214,500	232,100	222,700	186,300	164,400
Manufacturing – non-durable goods	20,400	19,600	17,800	14,900	12,600
<i>Servicing Providing:</i>					
Wholesale trade	42,300	42,200	40,700	35,700	33,500
Retail trade	86,600	90,600	88,200	83,600	81,000
Transport., warehousing & utilities	17,300	17,500	16,300	15,000	14,200
Information	32,500	42,700	41,900	34,200	31,000
Financial activities	34,200	34,000	35,200	35,000	34,800
Professional and business services	207,100	225,800	210,000	173,200	164,300
Educational and health services	85,500	85,200	89,800	91,100	92,700
Leisure and hospitality	68,600	71,400	72,000	67,400	67,500
Other services	<u>26,100</u>	<u>26,700</u>	<u>26,300</u>	<u>25,900</u>	<u>24,700</u>
Subtotal:	879,900	935,400	909,000	804,800	759,700
Government	91,400	94,500	94,600	98,100	94,800
Farm	<u>5,300</u>	<u>5,000</u>	<u>4,600</u>	<u>4,500</u>	<u>4,200</u>
Total:	<u>976,600</u>	<u>1,035,000</u>	<u>1,008,100</u>	<u>907,300</u>	<u>858,400</u>

Source: State of California, Employment Development Department.

Effective Buying Income

The following table shows the median household annual effective buying income ("EBI") for the County, the State of California and the United States from 1998 through 2002:

TABLE 5
Santa Clara County, California and the United States
Median Effective Buying Income
Calendar Years 1998 through 2002

<u>Year</u>	<u>County</u>	<u>State</u>	<u>U.S.</u>
1998	\$57,144	\$37,091	\$35,377
1999	61,122	39,492	37,233
2000	72,124	44,464	39,129
2001	67,504	43,532	38,365
2002	62,725	42,484	38,035

Source: Sales & Marketing Management, "Survey of Buying Power."

Commerce

The table shows the dollar volume of taxable transactions in the City from 1998 through 2002:

TABLE 6
City of Morgan Hill
Taxable Transactions
Calendar Years 1998 through 2002
(in Thousands of Dollars)

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Retail Outlets					
Apparel store	\$ 3,895	\$ 1,779	1,962	3,731	7,264
General merchandise stores	62,813	68,144	70,090	73,234	70,762
Food stores	21,819	22,566	23,892	24,531	23,831
Eating and drinking places	34,862	38,394	39,946	41,530	39,152
Home furnishing and appliances	8,547	9,793	13,417	11,470	9,996
Building materials and farm	11,060	10,506	9,321	7,874	6,320
Auto dealers and supplies	21,718	27,266	32,521	39,229	-- ⁽¹⁾
Service stations	25,227	30,141	34,763	33,375	41,076
Other retail stores	<u>54,582</u>	<u>59,995</u>	<u>65,523</u>	<u>61,322</u>	<u>156,412</u> ⁽¹⁾
Subtotal	244,523	268,584	291,435	296,296	297,950
All Other Outlets	<u>83,433</u>	<u>107,979</u>	<u>148,507</u>	<u>153,486</u>	<u>100,118</u>
All Outlets	<u>\$327,956</u>	<u>\$376,563</u>	<u>\$439,942</u>	<u>\$449,782</u>	<u>\$398,068</u>

(1) Figure omitted because its publication would result in the disclosure of confidential information. To the extent possible, sales are included in "Other retail stores."

Source: State of California, Board of Equalization.

Assessed Value and Construction Activity

The following is a summary of aggregate assessed value of properties in the City and construction permits issued by the City from fiscal years 1998-99 through 2002-03.

TABLE 7
City of Morgan Hill
Assessed Value, Building Permits Issued and Values for Permits Issued
Fiscal Years 1998-99 through 2002-03

Fiscal Year	Aggregate Assessed Value	Building Permits	<u>Value of Permits Issued</u>		
			<u>Commercial</u>	<u>Residential</u>	<u>Total</u>
1999	\$2,569,117,133	1,232	\$45,455,893	\$84,442,562	\$129,898,455
2000	2,906,464,530	1,312	31,214,390	45,608,507	76,822,897
2001	3,302,350,285	1,400	106,912,266	48,895,813	155,808,079
2002	3,724,450,362	1,457	22,044,283	73,537,055	95,581,338
2003	4,180,661,418	1,388	22,048,822	78,302,630	100,351,452

Source: City of Morgan Hill, Building Department.

CITY FINANCIAL INFORMATION

Budgetary Process; City Fiscal Year 2004-05 Budget

The fiscal year of the City begins in July 1st of each year and ends on June 30th of the following year. Before the end of each fiscal year, a budget is prepared and adopted for the following fiscal year. The City annual budget is based upon an in-depth analysis of actual and projected fund balances, revenues, and expenditures. Each City department prepares line item detail for each of their activities and recommends certain service levels and activity goals for the upcoming budget year. The Finance Department prepares revenue projections based upon input from other departments. The City Manager then reviews individual departmental requests, prioritizes activities based upon City Council policy, and makes certain adjustments. At the conclusion of this process, the proposed budget is prepared and is submitted to the City Council for review.

Budgetary control is maintained through monthly reports of revenue and expenditure accounts. The detailed monthly reports are reviewed by the City Manager and each Department Director. The City Council is provided a summary report each month. The monthly report is reviewed by the Audit and Finance Committee, which is composed of two City Council members and the City Treasurer, and is staffed by the City Manager, and the City's Director of Finance. A mid-year budget review and adjustment process is completed each January and submitted to the City Council for review and approval in February. Budgetary adjustments are only considered within the framework of the adopted budget and the City Council directions, goals and policies. New programs and new appropriations are not considered as part of the mid-year budget review. The budget as adopted by the City Council can be amended during the fiscal year. The City Manager is authorized to amend Council-approved appropriations at the activity level if necessary and proper.

The City's budget for fiscal year 2004-05 was adopted by the City Council on June 16, 2004. A complete copy of the City's fiscal year 2004-05 budget can be obtained from the City's Finance Department and is also posted on the City's website at www.morgan-hill.ca.gov.

The table below shows a comparison between the City's adopted budgets for General Fund revenues and expenditures for fiscal year 2003-04 and fiscal year 2004-05.

TABLE 8
City of Morgan Hill
Adopted Budgets for General Fund Revenue and Expenditures
(non-GAAP Budgetary Basis)
Fiscal Years 2003-04 and 2004-05

	<u>2003-04</u> <u>Adopted Budget</u> ⁽¹⁾	<u>2004-05</u> <u>Adopted Budget</u> ⁽²⁾
Sources of funds		
Property taxes	\$2,172,200	\$2,960,896
Other taxes	7,041,980	7,129,500
Licenses and permits	202,600	201,720
Fines and penalties	90,700	47,000
Use of money and property	775,550	819,261
Other agencies ⁽³⁾	2,351,900	1,728,200
Charges for current services	2,590,737	3,536,276
Other revenues	24,200	14,000
Transfer in	<u>823,986</u>	<u>403,100</u>
Total Sources	\$16,073,853	\$16,839,953
Uses of funds		
Salaries	9,392,516	10,357,057
Supplies and services	6,234,214	6,376,593
Capital outlay	17,000	41,400
Debt services	--	79,000
Internal service	801,462	1,812,233
Transfers out	--	99,025
Project expenditures	<u>--</u>	<u>--</u>
Total Uses	<u>\$16,445,192</u>	<u>18,765,308</u>
Source/Use variance	(371,339)	(1,925,355)
Balance at beginning of fiscal year	<u>10,633,442</u>	<u>9,821,672</u>
Balance at end of fiscal year	<u>\$10,262,103</u>	<u>\$7,896,317</u>

(1) As adopted by City Council on June 16, 2003.

(2) As adopted by City Council on June 16, 2004.

(3) A significant portion of revenues in this category comes from motor vehicle license fees received from State.

Source: City of Morgan Hill, Finance Department.

As further discussed in "BONDOWNERS' RISKS – State Finances" and "STATE OF CALIFORNIA BUDGET," the State of California is continuing to experience severe budgetary stress. Measures taken by the State to reduce spending have had a significant impact on the City's finances. The City's resources have been further strained by regional economic downturn in recent years. See "THE CITY – Recent Regional Development." As reflected in Table 8, the City has had a general fund budget deficit in the past two fiscal years, as well in fiscal year 2002-03. The City has used its reserves, which were built up during the past decade, to cover this deficit. The City's adopted budget for fiscal year 2004-05 incorporates further effort to reduce spending, including approximately \$900,000 in General Fund budget cuts in a variety of City Departments. In addition, the City has developed a five-year strategy to align its projected costs and revenues. Different measures – including re-organization, economic development and service level changes – were considered in the development of such strategy. The City

has posted information relating to the City's multi-year budget strategy at the City's website: www.morgan-hill.ca.gov.

Financial Statements

Set forth in the following pages are the City's General Fund balance sheets and statements of revenues, expenditures and changes in General Fund balance from fiscal years 1998-99 through 2002-03, based on the City's audited financial statements. The balance sheets and statements presented in this Official Statement are subject to the various notes attached to the City's audited financial statements for the respective years. Excerpts of the City's Comprehensive Annual Financial Report for fiscal year ended June 30, 2003, which includes the City's 2002-03 audited financial statements, is set forth in Appendix A. A complete copy of the City's Comprehensive Annual Financial Report for fiscal year ended June 30, 2003, as well as the reports for the prior years, can be obtained from the City's Finance Department.

The accounting policies of the City conform to generally accepted accounting principles. The Governmental Accounting Standards Board ("GASB") published its Statement No. 34, "Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments" on June 30, 1999. Statement No. 34 provides guidelines to auditors, state and local governments and special purpose governments such as school districts and public utilities, on new requirements for financial reporting for all governmental agencies in the United States. Generally, the basic financial statements and required supplementary information should include (i) Management's Discussion and Analysis; (ii) financial statements prepared using the economic measurement focus and the accrual basis of accounting; and (iii) fund financial statements prepared using the current financial resources measurement focus and the modified accrual method of accounting; and (iv) required supplementary information. As required by GASB, the City implemented Statement No. 34 for the 2002-03 audited financial statements. Consequently, changes in financial statement content and structure is evident in the 2002-03 audit.

TABLE 9
City of Morgan Hill
General Fund Balance Sheets
Fiscal Years 1998-99 and 2002-03

	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>
<u>Assets</u>					
Pooled cash and investments	\$7,203,086	\$7,994,020	\$10,228,761	\$11,875,907	\$11,279,306
Restricted pooled cash & invest.	--	--	--	--	327,002
Receivables:					
Taxes & special assessments	1,135,055	1,159,119	1,230,315	1,293,172	1,212,709
Accrued interest	142,980	133,946	166,811	99,633	61,088
Other accounts receivable	160,668	268,127	269,019	61,099	290,778
Due from other funds	5,548	--	--	--	--
Deposit in escrow/prepaid items	--	--	--	--	7,331
Loans receivable	--	--	469,821	523,911	514,357
Total assets	<u>\$8,649,337</u>	<u>\$9,555,212</u>	<u>\$12,364,727</u>	<u>\$13,853,722</u>	<u>\$13,692,571</u>
<u>Liabilities and fund balance</u>					
Liabilities:					
Accounts payable	\$1,051,758	\$888,168	\$935,698	\$1,215,149	\$1,399,703
Accrued liabilities	168,553	125,889	116,708	169,416	202,001
Deferred revenue	56,524	49,418	476,003	633,262	613,059
Customer and other deposits	--	--	84,647	123,769	14,301
Compensated absences	59,932	75,621	--	--	--
Total liabilities	<u>\$1,336,767</u>	<u>\$1,139,096</u>	<u>\$1,613,056</u>	<u>\$2,141,596</u>	<u>\$2,229,064</u>
Fund balances:					
Reserved:					
Encumbrances	50,628	115,496	\$143,277	\$128,479	79,660
Noncurrent loans receivable	--	--	--	--	514,357
Restricted cash	--	--	--	--	327,002
Unreserved	7,261,942	8,300,620	10,608,394	11,583,647	10,542,488
Total fund balance	<u>\$7,312,570</u>	<u>\$8,416,116</u>	<u>\$10,751,671</u>	<u>\$11,712,126</u>	<u>\$11,463,507</u>
Total liabilities & fund balance	<u>\$8,649,337</u>	<u>\$9,555,212</u>	<u>\$12,364,727</u>	<u>\$13,853,722</u>	<u>\$13,692,571</u>

Source: City of Morgan Hill audited financial statements for fiscal years 1998-99 through 2002-03.

TABLE 10
City of Morgan Hill
Statements of Revenues, Expenditures and Changes in General Fund Balance
Fiscal Years 1998-99 and 2002-03

	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>
<u>Revenues</u>					
Property taxes & special assessments	\$1,363,527	\$1,635,769	\$1,848,188	\$2,167,507	\$2,315,105
Sales taxes	3,990,716	4,454,774	5,532,132	4,870,295	4,636,927
Franchise, hotel & other taxes	1,994,321	2,525,798	2,803,261	2,443,461	2,401,341
Licenses and permits	132,651	134,568	200,892	205,594	196,209
Funding from other government agencies ⁽³⁾	1,568,887	1,821,261	2,146,538	2,159,403	2,198,368
Charges for current services	251,559	165,900	348,446	1,929,602	2,221,246
Investment income & rentals	382,470	483,242	859,365	1,007,557	451,852
Fines, forfeitures & other revenues	570,528	543,630	226,112	164,312	330,792
Total revenues	<u>\$10,254,659</u>	<u>\$11,764,942</u>	<u>\$13,964,934</u>	<u>\$14,947,731</u>	<u>\$14,751,840</u>
<u>Expenditures</u>					
Current					
General government	\$894,763	\$1,059,078	\$1,841,720	\$4,188,091	4,727,554
Public safety	7,535,997	7,938,339	8,885,804	9,441,988	9,618,578
Public works	567,105	549,674	743,476	658,438	847,409
Debt Service					
Principal	149,010	--	--	--	--
Interest	9,199	6,001	6,275	4,128	--
Capital Outlay	49,207	67,970	229,280	163,263	274,910
Total Expenditures	<u>\$9,205,281</u>	<u>9,621,062</u>	<u>\$11,706,555</u>	<u>\$14,455,908</u>	<u>\$15,468,451</u>
Excess (deficiency) of revenues over (under) expenditures	\$1,049,378	\$2,143,880	\$2,258,379	\$491,823	(\$716,611)
Other financing sources (uses)					
Operating transfers in	1,068,536	1,119,596	1,803,356	647,300	925,332
Operating transfers out	(383,325)	(2,320,254)	(1,149,457)	(526,119)	(537,000)
Total other financing sources & uses	685,211	(1,200,685)	(66,101)	121,181	388,332
Net change in fund balance	1,734,589	943,222	2,192,278	613,004	(328,279)
Adjustment to budgetary basis	50,628	115,496	143,277	128,479	79,660
Fund balance – beginning	5,527,353	7,312,570	8,416,116	10,751,671	11,712,126
Residual equity transfer in (out)	--	44,828	--	218,972	--
Fund balance – ending	<u>\$7,312,570</u>	<u>\$8,416,116</u>	<u>\$10,751,671</u>	<u>\$11,712,126</u>	<u>\$11,463,507</u>

(1) A significant portion of revenues in this category comes from motor vehicle license fees received from State.

Source: City of Morgan Hill audited financial statements for fiscal years 1998-99 through 2002-03.

Sales Taxes

A sales tax is imposed on retail sales or consumption of personal property. Sales and use taxes constitute the largest source of tax revenue to the City, representing approximately 31.4 percent of General Fund revenues in fiscal year 2002-03. As projected, sales tax revenue has declined by approximately 9 percent in fiscal year 2003-04 to a level of approximately \$4.2 million. However, primarily due to new business and modest economic growth, the City forecasts a growth of approximately 9 percent to \$4.6 million for fiscal year 2004-05. See Table 6 under the caption “THE CITY – Commerce” for information regarding taxable transactions in the City for calendar years 1998 through 2002.

Triple Flip Legislation. Sales tax revenue could be reduced in the coming years, due to legislation relating to the issuance of “economic recovery bonds” by the State, which was approved by State voters at the March 2, 2004 election. The initiative relating to such bonds includes a provision commonly referred to as the “Triple Flip.” This legislation would divert a portion of local governments’ share of sales taxes to the State, and in return redirect certain property tax revenues from ERAF (defined below) to local governments. See “Property Taxes –ERAF; *Triple Flip*” and “STATE OF CALIFORNIA BUDGET.”

Sales Tax Rates. The City’s sales tax revenue represents the City’s one percent share of the sales and use tax, imposed on taxable transactions occurring within the City’s boundaries. The sales tax is governed by the Bradley-Burns Uniform Local Sales and Use Tax.

The tax rate is established by the State Legislature. Effective January 1, 2002, the aggregate tax rate in the State is 7.25 percent. As permitted by statute, an additional 1 percent is imposed in Santa Clara County. The State collects and administers the tax, and makes distributions on taxes collected within the City, as follows:

TABLE 11
City of Morgan Hill
Sales Tax Rates
As of May 1, 2004

<u>Jurisdiction</u>	<u>Rate</u>
State General Fund	5.00%
City Local Tax	1.00 ⁽¹⁾
Countywide Transportation Tax	0.25
County Mental Health	0.50
Public Safety Augmentation Fund	0.50
County Tax (1996 Measure B and 2000 Measure A)	<u>1.00</u>
Total	<u>8.25%</u>

- (1) See “STATE OF CALIFORNIA BUDGET – Proposed Governor’s Budget for Fiscal Year 2004-05 – *Triple Flip*” for a discussion of the effect of Triple Flip legislation on the portion of sales taxes allocable to the City.

The State’s actual administrative costs with respect to the portion of sales taxes allocable to the City are deducted before distribution and are determined on a quarterly basis.

Property Taxes

Revenues from property taxes, at \$2,315,105, represented 15.7 percent of the City's General Fund revenues in fiscal year 2002-03. Despite a slowed economy in the region since mid-2000, property values in the City have continued to rise resulting in property tax growth. Due to historic low mortgage interest rates, sales of new homes and property turnover (which trigger re-assessments) have remained strong. As shown in Tables 9 and 10, property taxes were the third largest category of revenue source to the City in fiscal year 2002-03. Revenues from property taxes are estimated to represent 16.6 percent of the City's General Fund revenues in fiscal year 2003-04. As discussed below, in the next few years, an even greater portion of the General Fund revenue may come from property taxes because of the recent Triple Flip legislation. As shown in Table 8, the City's fiscal year 2004-05 budget projects that 17.5 percent of General Fund revenues, at \$2,960,896, will be from property taxes.

Proposition 13 Limitations. Article XIII A of the State of California Constitution imposes limits on annual adjustments to real property assessed values and to the amount of *ad valorem* tax that may be levied on real property. See "**LIMITATIONS ON TAX REVENUES AND APPROPRIATIONS – Article XIII A.**"

ERAF; Triple Flip. In response to California's severe financial and budgetary distress, the State Legislature in recent years has adopted legislation impacting the City's revenues from property taxes, including, in particular, provisions relating to the Education Revenue Augmentation Fund ("ERAF") and the so-called "Triple Flip" legislation. In fiscal year 2002-03, property taxes in the amount of \$1,223,746 were shifted from the City to ERAF pursuant to the State's requirements. In fiscal year 2003-04, the City's share of the ERAF shift is estimated to be \$1,300,000. On March 2, 2004, the State's voters approved a bond initiative formally known as the "California Economic Recovery Act," which included provisions commonly referred to as "Triple Flip" legislation. This legislation calls for the diversion of a portion of local governments' share of sales taxes to the State, and in return redirect certain property tax revenues from ERAF to local government. As the result, a greater portion of the City's General Fund revenues may come from property taxes, at least over the next few years. See "STATE OF CALIFORNIA BUDGET" for a more detailed discussion on the property tax shift and the Triple Flip legislation.

County Teeter Plan. The County of Santa Clara has implemented the Alternative Method of Distribution of Tax Levies and Collections and of Tax Sale Proceeds (the "Teeter Plan"), which applies to property taxes levied for the City (not including the special assessments levied for its assessment districts). Under the Teeter Plan, the County guarantees that the City will receive 100 percent of the taxes levied for it. Any delinquencies are borne by the County, which in return collects and retains all penalties and interest which accrue on the delinquent taxes. Consequently, the City's tax receipts do not reflect any delinquencies.

Assessed Valuation; Top Tax Payers. The table below presents the assessed valuation of taxable property in the City from fiscal year 1999-00 through fiscal year 2003-04.

TABLE 12
City of Morgan Hill
Assessed Values of All Taxable Property
Fiscal Years 1999-00 through 2003-04

<u>Fiscal Year</u>	<u>Secured Property</u> ⁽¹⁾	<u>Unsecured Property</u>	<u>Total Assessed Value</u>
2000	\$2,765,363,043	\$141,101,487	\$2,906,464,530
2001	3,138,372,709	163,977,576	3,302,350,285
2002	3,527,696,005	196,754,357	3,724,450,362
2003	3,900,495,868	280,165,550	4,180,661,418
2004	4,232,110,659	257,720,250	4,489,830,909

(1) Includes utility valuation.

Source: City of Morgan Hill, based on information provided by the County of Santa Clara.

The State's Community Redevelopment Law (codified in Part 1 of Division 24 of the California Health and Safety Code) authorizes the redevelopment agency of any city or county to receive an allocation of tax revenues resulting from increases in assessed values of properties within designated redevelopment project areas (the "incremental value") occurring after the year the project area is formed. In effect, local taxing agencies, such as the City, realize tax revenues only in the assessed value of such property at the time the redevelopment project is created for the duration of such redevelopment project. As of May 31, 2004, one redevelopment project has been formed in the City. The table below sets forth the total assessed valuations and redevelopment agency incremental values from fiscal years 2000 through 2004:

TABLE 13
City of Morgan Hill
Total and Net Property Tax Valuations
Fiscal Years 1999-00 through 2003-04

<u>Fiscal Year</u>	<u>Total Assessed Value</u>	<u>Redev. Agency Incremental Value</u>	<u>Net Value</u>	<u>Percent Change</u>
2000	\$2,906,464,530	\$1,121,901,965	\$1,784,562,565	--
2001	3,302,350,285	1,314,363,383	1,987,986,902	11.40%
2002	3,724,450,362	1,529,851,691	2,194,598,671	10.39
2003	4,180,661,418	1,854,750,702	2,325,910,716	5.98
2004	4,489,930,909	1,967,360,481	2,522,570,428	8.46

Source: Total assessed value data from City of Morgan Hill, based on information provided by the County of Santa Clara. Redevelopment agency increment value from California Municipal Statistics, based on information provided by the County of Santa Clara.

The top ten taxpayers, based on local secured assessed values of taxable property in the City, are as shown on the 2003-04 tax roll:

TABLE 14
City of Morgan Hill
Top Ten Taxpayers Based on Local Secured Assessed Value
Fiscal Year 2003-04

<u>Taxpayer</u>	<u>Primary Land Use</u>	<u>Total Local Secured Assessed Value</u>	<u>% of Total ⁽¹⁾</u>
TBI Mission W LLC	Industrial	\$75,913,342	1.79%
Abbott Laboratories	Industrial	35,854,111	0.85
Anritsu US Holding Inc	Industrial	34,564,916	0.82
Willowbrook California Properties LLC	Industrial	20,177,674	0.48
Llagas, LLC	Agricultural	19,833,649	0.47
Archstone Communities	Apartments	17,395,820	0.41
Michael T. and S.P. La Barbera	Shopping Center	16,647,800	0.39
Shea Homes LP	Residential Development	16,268,821	0.38
Villa Ciolino Associates LP	Hotel/Motel	15,525,729	0.37
<u>Tharaldson Family Inc.</u>	<u>Hotel/Motel</u>	<u>14,772,355</u>	<u>0.35</u>
	Total	<u>\$266,954,217</u>	<u>6.31%</u>

(1) 2003-04 local secured assessed value (excluding utilities): \$4,232,110,659.

Source: California Municipal Statistics, Inc.

Vehicle License Fee

The motor vehicle license fee (“VLF”) is a fee charged for operating that vehicle on public streets. This fee is collected by the State’s Department of Motor Vehicles and disbursed to other governmental agencies by the State Controller. VLF is based on a fee equivalent to 2 percent of the market value (based on an 11-year depreciation schedule) of motor vehicles, which is imposed annually by the State “in-lieu” of property tax. Cities and counties receive 81.25 percent of this revenue based on population. VLF represents a significant source of the City General Fund revenue source, at \$1,400,000 for fiscal year 2002-03 and estimated at \$1,500,000 for fiscal year 2003-04 (assuming that the City receives its full share of VLF and without the State taking away the backfill (discussed below)).

State legislation was passed in 1998 reducing the VLF obligation for car owners by 25 percent in 2001 and another 35 percent in 2002. As a result of the reductions, cities and counties would have experienced a significant revenue loss. However, legislation was also passed to provide a backfill from the State as long as the actual State General Fund revenues come within certain targets. So far, the State has fulfilled this obligation. With the current State’s budget crisis, there remains a continued threat that the State could take away the backfill. See also “STATE OF CALIFORNIA BUDGET.”

Other Sources of Revenue

Other categories that represent significant sources of revenues for the General Fund include franchise and hotel taxes and charges for current services.

Franchise, Hotel and Other Taxes. “Franchise, hotel and other taxes,” as a category, represented 16.3 percent of the City’s General Fund revenues in fiscal year 2002-03 and are estimated to be 17.0 percent of the City’s General Fund revenues in fiscal year 2003-04. Two of the major taxes included in this category are the franchise tax (levied on cable television, trash collection and utility franchises) and the transient occupancy tax (levied on persons staying 30 days or less in a hotel, inn, motel, tourist home or other lodging facility). The City’s franchise tax revenues deposited in the General Fund were \$966,134 in fiscal year 2002-03 and are expected to be \$970,000 in fiscal year 2003-04. The City’s transient occupancy tax revenues deposited in the General Fund were \$882,194 in the fiscal year 2002-03 and are estimated to be \$900,000 in fiscal year 2003-04.

Charges for Current Services. This category includes recreation class revenues, overhead allocation recovery and other charges. Such revenues represented 15.1 percent of the City’s General Fund revenues in fiscal year 2002-03 and are estimated to be 17.9 percent of the City’s General Fund revenues in fiscal year 2003-04.

Investment Policy and Portfolio

Goals. The investment policy and practices of the City are based on State law, City ordinances, prudent money management and the “prudent person” standards. The primary goals of this policy are to invest public funds to:

1. Meet the daily cash flow needs of the City.
2. Comply with all laws of the State regarding the investment of public funds.
3. Achieve a reasonable rate of return while minimizing the potential for capital losses arising from market changes or issuer default.
4. Encourage local economic benefits to the City’s residents and businesses by investing in local financial institutions, subject to legal control.

Scope. The investment policy applies to all funds under the control of the City Council, including but not limited to the general revenues of the City, enterprise fund revenues and proceeds of bond sales, debt service revenues and trust funds in the custody of the City. These funds are accounted for in the City’s comprehensive annual financial reports.

Objectives. Safety of principal is the City’s foremost objective of the investment program. Investments are undertaken in a manner that seeks to ensure that capital losses resulting from institution default, broker-dealer default, or the erosion of market value are avoided. The City seeks to preserve principal by mitigating the two types of risk: credit risk and market risk. Credit risk, defined as the risk of loss due to failure of the issuer of a security, is mitigated by investing in only authorized investments, consisting of high quality securities, and by diversifying the investment portfolio so that the failure of any one issuer would not unduly harm the City cash flow. Market risk, defined as the risk of market value fluctuations due to overall changes in the general level of interest rates, is mitigated by structuring the portfolio so that securities mature at the same time that major cash outflows occur, eliminating the need to sell securities prior to maturity; and by prohibiting the taking of short positions (selling securities that the City does not own). It is explicitly recognized, however, that in a diversified portfolio, occasional measured losses may occur, and must be considered within the context of the overall investment return.

Liquidity is the second most important objective of the City’s investment program. The City’s investment policy requires that the City’s investment portfolio remains sufficiently liquid to enable the

City to meet all operating requirements. At all times, at least 50 percent of the total portfolio are to be invested for periods of three years or less; at least 30 percent of the total portfolio are to be invested for two years or less; at least 20 percent of the total portfolio are to be invested for one year or less. At no time may a security in the portfolio mature in more than five years except bond reserve funds, bond escrow funds and any funds approved by the City Council to be appropriate for a longer period.

The City portfolio are invested to attain a market average rate of return through economic cycles, as long as it does not diminish the objectives of safety and liquidity. The market rate of return is defined as the average return on the one-year U.S. Treasury Bill. Whenever possible and in a manner consistent with the objectives of safety of principal and liquidity, a yield higher than the market rate of return are to be sought.

Authority to Invest Funds. The City Council has appointed the City Treasurer responsible for undertaking investment transactions on behalf of the City. Unless specifically designated by the City Council, the only officials authorized to undertake investment transactions on behalf of the City are the City Treasurer, Deputy City Treasurer and City Manager. The City Manager reviews all investment purchases before they occur. The City Treasurer and City Manager observe, review and react to the changing conditions that affect the investment portfolio. The City Treasurer and City Manager are responsible for establishing a system of controls to ensure compliance with the City's investment policy.

Portfolio as of March 31, 2004. As of March 31, 2004, the book value of the City's combined investment portfolio, general checking account, treasury management account and petty cash is \$84,866,407, 13.4 percent of which represent general fund moneys invested. The table below shows the City's investment portfolio, as categorized by types of investment securities:

TABLE 15
City of Morgan Hill
Investment Portfolio, General Checking Account, Treasury Management Account and Cash
as of March 31, 2004

<u>Investment Type</u>	<u>Book Value</u>	<u>% of Invest. Portfolio</u>	<u>Market Value</u>	<u>Avg. Years to Maturity</u>
Local Agency Investment Fund (LAIF) ⁽¹⁾	\$44,690,370	54.54%	\$44,716,803	0.003
Certificates of Deposit	2,000,000	2.44	2,000,000	1.233
Federal Agency Issues	35,245,149	43.02	35,370,353	4.000
Money Market	<u>558</u>	<u>0.00</u>	<u>558</u>	<u>0.003</u>
Subtotal	\$81,936,077	100.00%	\$82,087,714	1.753
General Checking	\$1,446,180			
Treasury Cash Management	1,500,000			
Petty Cash	<u>4,150</u>			
Total	<u>\$84,866,407</u>			

(1) Per State Treasurer Report, dated February 29, 2004, LAIF has invested approximately 15 percent of its balance in Treasury bills and notes, 15 percent in certificates of deposit, 22 percent in commercial paper and corporate bonds, 0 percent in banker's acceptances and 48 percent in others.

Source: City of Morgan Hill.

Long-Term Indebtedness Payable

The City currently has several outstanding issues of bonds and certificates of participations, all of which are payable out of special assessment revenues levied on property within the City's respective

assessment districts or specified enterprise funds. The City has not issued any other long-term debt payable out of its General Fund.

Direct and Overlapping Debt

Set forth below is a direct and overlapping debt report as of May 31, 2004, prepared by California Municipal Statistics, Inc. This report is included for informational purposes only. The City has not reviewed the report for completeness or accuracy and makes no representation in connection therewith:

TABLE 16
City of Morgan Hill
Direct and Overlapping Debt
As of May 31, 2004

2003-04 Local Secured Assessed Valuation ⁽¹⁾ :	\$4,489,830,909
Redevelopment Incremental Valuation:	<u>\$1,967,360,481</u>
Adjusted Assessed Valuation:	\$2,522,470,428

<u>OVERLAPPING TAX AND ASSESSMENT DEBT:</u>	<u>% Applic.</u> ⁽²⁾	<u>Debt</u>
Morgan Hill Unified School District	45.122%	\$32,522,924
City of Morgan Hill 1915 Act Bonds	100.	26,500,000
Santa Clara Valley Water District Flood Control Benefit Assessment District	1.317	<u>2,595,939</u>
TOTAL OVERLAPPING TAX AND ASSESSMENT DEBT		\$61,618,863

<u>DIRECT & OVERLAPPING GENERAL FUND OBLIGATION DEBT:</u>		
Santa Clara County General Fund Obligations	1.317	8,297,627
Santa Clara County Board of Education Certificates of Participation	1.317	243,777
Gavilan Joint Community College District General Fund Obligations	16.978	339,560
City of Morgan Hill	100.	<u>--</u> ⁽¹⁾
TOTAL DIRECT & OVERLAPPING GENERAL FUND OBLIGATION DEBT		\$8,880,964

COMBINED TOTAL DEBT: \$70,499,827 ⁽²⁾

Ratios to 2003-04 Assessed Valuation:

Total Overlapping Tax and Assessment Debt 1.37%

Ratios to 2003-04 Adjusted Assessed Valuation:

Combined Direct Debt - %
Combined Total Debt 2.79%

State School Building Aid Repayable as of 6/30/03: \$0

(1) Excludes lease revenue bonds to be sold.

(2) Excludes tax and revenue anticipation notes, enterprise revenue, mortgage revenue and tax allocation bonds and non-bonded capital lease obligations.

Source: California Municipal Statistics.

Employee Relations

City employees are represented by three labor associations. There has been no work stoppage by City employees. Terms of current negotiated agreements with various bargaining units are shown below:

<u>Bargaining Unit</u>	<u>No. of Employees</u>	<u>Term</u>	<u>Expiration Date</u>
American Federation of State, County and Municipal Employees	79	2	6/30/2005
Community Service Officers Association	19	2	6/30/2005
Police Officers Association	28	3	6/30/2006

Source: City of Morgan Hill, Finance Department.

Pension Plans

All permanent City employees are eligible to participate in the Public Employee's Retirement Fund of the State's Public Employees Retirement System ("CalPERS"). CalPERS is an agent multiple employer public employee retirement system that acts as a common investment and administrative agent for participating public entities within the State.

Public safety employees and all other employees have an obligation to contribute 9 percent and 7 percent of their salary to the CalPERS fund, respectively. The City makes the contributions required of City employees on their behalf and for their account, with the exception of safety and certain management personnel who are contributing the obligation through their earnings. The City is required to contribute at an actuarially determined rate. The required employer contribution rates for fiscal year 2002-03 were zero percent for public safety personnel and zero percent for miscellaneous employees of annual covered payroll. For fiscal year ending June 30, 2003, CalPERS covered payroll total \$11,067,627.

Effective July 1, 2003, the City began paying an employer contribution to CalPERS. The 2003-04 employer contribution for 6.805 percent of payroll for safety employees and 2.469 percent of payroll for other employees.

The following table shows the City required contributions and the percentage contributed from fiscal year 2001-02 through fiscal year 2003-04:

<u>Fiscal Year Ending June 30</u>	<u>Annual Pension Cost ("APC")</u>	<u>Percentage of APC Contributed</u>	<u>Net Pension Obligation</u>
2002	\$319,104	100%	\$0
2003	399,486	100	0
2004 ⁽¹⁾	689,435	100	0

(1) Projected.

Source: City of Morgan Hill, Finance Department.

Risk Management

The City is a member of the Association of Bay Area Government ("ABAG"). The City participates in the ABAG's Pooled Liability Insurance Network (the "ABAG-PLAN"), a self-insured risk pool formed by certain cities in California to pool their insurance risk and help lower the overall cost of providing insurance coverage for general liability claims. The coverage amount is \$10 million per occurrence, subject to a \$100,000 deductible. The City Manager, the Director of Finance as Risk

Manager, and the City Attorney work with the ABAG-PLAN to coordinate the City's insurance policies, maintain insurance records and represent the City in handling claims.

In addition, the City is fully self-insured for unemployment insurance. The City is also self-insured for workers' compensation up to a maximum of \$250,000 for each claim. Purchased insurance covers the excess of \$5,000,000 per year for workers' compensation claims.

THE AUTHORITY

The Authority was established pursuant to Article 1 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the California Government Code and a Joint Exercise of Powers Agreement, dated as of November 5, 2003, by and between the City and the Morgan Hill Redevelopment Agency. The governing commission of the Authority is comprised of all of the individuals who currently are members of the City Council of the City. The Authority is qualified to assist in the financing of certain public improvements and to issue the Bonds under the Bond Law. The Authority has no taxing power. The Authority and the City are each separate and distinct legal entities, and the debts and obligations of each such entity are not debts or obligations of the other entity.

BONDOWNERS' RISKS

INVESTMENT IN THE BONDS INVOLVES ELEMENTS OF RISK. THE FOLLOWING SECTION DESCRIBES CERTAIN SPECIFIC RISK FACTORS AFFECTING THE PAYMENT AND SECURITY OF THE BONDS. THE FOLLOWING DISCUSSION OF RISKS IS NOT MEANT TO BE AN EXHAUSTIVE LIST OF THE RISKS ASSOCIATED WITH THE PURCHASE OF THE BONDS AND THE ORDER OF DISCUSSION OF SUCH RISKS DOES NOT NECESSARILY REFLECT THE RELATIVE IMPORTANCE OF THE VARIOUS RISKS. POTENTIAL INVESTORS ARE ADVISED TO CONSIDER THE FOLLOWING FACTORS ALONG WITH ALL OTHER INFORMATION IN THIS OFFICIAL STATEMENT IN EVALUATING THE BONDS. THERE CAN BE NO ASSURANCE THAT OTHER RISK FACTORS NOT DISCUSSED UNDER THIS CAPTION WILL NOT BECOME MATERIAL IN THE FUTURE.

Limited Obligations with Respect to the Bonds

The Bonds are limited obligations of the Authority payable solely from and secured by a pledge of Revenues and certain funds and accounts held under the Indenture. Revenues consist primarily of Base Rental Payments payable by the City under the Sublease and amounts on deposit from time to time in the funds and accounts held by the Trustee. If for any of the reasons described herein, or for any other reason, the Revenues collected under the Sublease are not sufficient to pay debt service on the Bonds, the Authority will not be obligated to utilize any other of its funds, other than moneys on deposit in the Reserve Account and certain other amounts on deposit in the funds and accounts established under the Indenture, to pay debt service on the Bonds.

The Authority has no taxing power. The obligation of the City to make Rental Payments under the Sublease does not constitute an obligation of the City which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the Bonds nor the obligation of the City to make Rental Payments under the Sublease constitutes an indebtedness of the City, State or any of its political subdivisions within the meaning of any constitutional or statutory debt limitations.

Abatement

The Sublease provides that the obligation of the City to pay Base Rental Payments will be abated during any period in which, by reason of any damage, destruction or condemnation, there is substantial interference with the use and occupancy of the Project or any portion thereof by the City. Such abatement will continue until the restoration of the Project to tenantable condition. See “SECURITY FOR THE BONDS – Abatement; Insurance” In the event that the Project, if damaged or destroyed by an insured casualty, could not be replaced during the period of time that proceeds of the City’s rental interruption insurance will be available in lieu of Base Rental Payments, or in the event that casualty insurance proceeds or condemnation proceeds are insufficient to provide for complete repair or replacement of the Project or a redemption of the Bonds in whole (see “THE BONDS – Redemption – *Extraordinary Redemption*”), a default on the Bonds may occur if there is an insufficient amount of funds in the Reserve Account to make up for the deficit.

Risk of Uninsured Loss

The City covenants under the Sublease to maintain certain insurance policies on the Project. These insurance policies do not cover all types of risk. The Project could be damaged or destroyed due to a casualty for which the Project is uninsured. Additionally, the Project could be the subject of an eminent domain proceeding. Under these circumstances an abatement of Base Rental Payments could occur and could continue indefinitely. There can be no assurance that the providers of the City’s liability and rental interruption insurance will in all events be able or willing to make payments under the respective policies for such loss should a claim be made under such policies. There can be no assurances that amounts received as proceeds from insurance or from condemnation of the Project will be sufficient to redeem the Bonds.

Additional Obligations of the City

Under the Sublease, the City is permitted to enter into other obligations which constitute additional charges against its revenues without the consent of Owners of the Bonds. To the extent that additional obligations are incurred by the City, the funds available to pay Base Rental Payments may be decreased.

The Base Rental Payments and other payments due under the Sublease (including payment of costs of repair and maintenance of, and taxes and other governmental charges levied against, the Project) are payable from funds lawfully available to the City. If the amounts which the City is obligated to pay in a fiscal year exceed the City’s revenues for such year, the City may choose to make some payments rather than making other payments, including Base Rental Payments, based on the perceived needs of the City. The same result could occur if, because of California Constitutional limits on expenditures, the City is not permitted to appropriate and spend all of its available revenues or is required to expend available revenues to preserve the public health, safety and welfare.

State Finances

The State of California is currently experiencing significant financial and budgetary stress. The City cannot predict whether the State will continue to encounter budgetary problems in this or in any future fiscal years. The State’s financial crisis affects communities and local public agencies throughout California. As discussed in further detail under the caption “STATE OF CALIFORNIA BUDGET,” the Governor’s 2004-05 proposed budget contains a number of measures which may impact on the City’s finances, including, among others, the so-called “Triple Flip” legislation. The City has developed a strategy to align its projected costs and revenues. See “CITY FINANCIAL INFORMATION –

Budgetary Process; City 2004-05 Budget.” However, it is unknown what further measures would be taken by the State to in its effort to rebalance the budget. The City cannot predict the final outcome of future State budget negotiations, the impact that such budgets will have on its finances and operations or what actions will be taken in the future by the State Legislature and Governor to deal with changing State revenues and expenditures. Current and future State budgets will be affected by national and State economic conditions and other factors, including the current economic downturn, over which the City has no control.

Natural Calamities; Earthquakes

From time to time, the City is subject to natural calamities that may adversely affect economic activity in the City which therefore may have a negative impact on City finances. There can be no assurance that the occurrence of any natural calamity would not cause substantial interference to the Project, or that the City would have insurance or other resources available to make repairs to the Project in order to make Base Rental Payments under the Sublease.

The City, like most communities in California, is an area of unpredictable seismic activity, and therefore, is subject to potentially destructive earthquakes. The casualty and liability insurance may not cover losses due to earthquake. The City is not required to maintain earthquake insurance under the Sublease. Rental interruption insurance will not cover interruption of Base Rental Payments due to earthquake. If there was to be an occurrence of severe seismic activity in the City, there could be substantial damage to and interference with the City’s right to use and occupy all or a portion of the Project, which could result in Base Rental Payments being subject to abatement.

Limited Recourse on Sublease Default

If an event of default occurs and is continuing under the Sublease, there is no remedy of acceleration of any Base Rental Payment which have not come due. The remedies provided for in the Sublease include, in addition to all other remedies provided at law, reletting the Project or, without terminating the Sublease, collecting each installment of rent as it becomes due and holding the City liable therefor. If the Trustee does not terminate the Sublease, the Trustee may be required to seek a separate judgment each year for that year’s defaulted Base Rental Payments. Any such suit for money damages would be subject to limitations on legal remedies against cities in California, including a limitation on enforcement of judgments against funds or property needed to serve the public welfare and interest could prove both expensive and time-consuming.

The Sublease permits the Trustee, as the Authority’s assignee, to take possession of and re-let the Project in the event of a default by the City under the Sublease. However, due to the fact that the Project serves essential governmental purposes, a court may determine to not permit such remedy to be exercised. Even if such remedy may be exercised, no assurance can be given that the Trustee could readily relet the Project for rents which are sufficient to enable it to pay debt service on the Bonds in full when due.

Limitations on Remedies

Remedies available to the Owners may be limited by a variety of factors and may be inadequate to assure the timely payment of principal of and interest and premium, if any, on the Bonds or to preserve the tax-exempt status of interest on the Bonds.

Bond Counsel has limited its opinion as to the enforceability of the Bonds and the Indenture to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium, or others similar laws affecting generally the enforcement of

creditor's rights, by equitable principles and by the exercise of judicial discretion. Additionally, the Bonds are not subject to acceleration in the event of the breach of any covenant or duty under the Indenture. The lack of availability of certain remedies or the limitation of remedies may entail risks of delay in the exercise of, or limitations on or modifications to, the rights of the Owners.

Enforceability of the rights and remedies of the owners of the Bonds, and the obligations incurred by the Authority, may become subject to the federal bankruptcy code and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditor's rights generally, now or hereafter in effect, equity principles which may limit the specific enforcement under State law of certain remedies, the exercise by the United States of America of the powers delegated to it by the Constitution, the reasonable and necessary exercise, in certain exceptional situations, of the police powers inherent in the sovereignty of the State and its governmental bodies in the interest of serving a significant and legitimate public purpose and the limitations on remedies against governmental entities in the State.

Investment of Funds

The Reserve Account and all other funds held under the Indenture are required to be invested in Permitted Investments as provided under the Indenture, respectively. See "APPENDIX C – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS." All investments, including Permitted Investments, authorized by law from time to time for investments by the Authority contain a certain degree of risk. Such risks include, but are not limited to, a lower rate of return than expected, decline in market value and loss or delayed receipt of principal. The occurrence of these events with respect to amounts held under the Indenture could have a material adverse effect on the security for the Bonds.

Future Initiative and Legislation

As discussed herein under "LIMITATIONS ON TAX REVENUES AND APPROPRIATIONS," the California's Constitutional initiative process has resulted in the adoption of measures which pose certain limits on the ability of cities and local agencies to generate revenues, through property taxes or otherwise. From time to time, other initiative measures could be adopted, affecting the City's ability to generate revenues and to increase appropriations. No assurances can be given as to the potential impact of any future initiative or legislation on the finances and operations of the City.

Loss of Tax Exemption

In order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds, the Authority and the City have covenanted to comply with the applicable requirements of Section 148 and certain other sections of the Internal Revenue Code of 1986, as amended, relative to arbitrage and avoidance of characterization as private activity bonds, among other things. The interest on the Bonds could become includable in gross income for purposes of federal income taxation retroactive to the date of issuance of the Bonds as a result of acts or omissions of the Authority and/or the City in violation of their covenants. Should such an event of taxability occur, the Bonds are not subject to acceleration, redemption or any increase in interest rates and will remain Outstanding until maturity or until redeemed under one of the redemption provisions contained in the Indenture. See "TAX MATTERS."

Secondary Market

There can be no assurance that there will be a secondary market for the Bonds, or if a secondary market exists, that such Bonds can be sold for any particular price. Occasionally, because of general

market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Additionally, pricing of issues for which a market is being made will depend upon then prevailing circumstances. Such prices could substantially differ from the original purchase price.

LIMITATIONS ON TAX REVENUES AND APROPRIATIONS

There are a number of provisions in the State of California Constitution that limit the ability of the City to raise and expend tax revenues. Contained below is a description of some of these limitations. In addition to the ones discussed in this section below, other initiative measures could be adopted from time to time further affecting the City's revenues and finances.

Property Tax Limitations - Article XIII A

California voters, on June 6, 1978, approved an amendment (commonly referred to as "Proposition 13" or the "Jarvis-Gann Initiative") to the California Constitution. This amendment, which added Article XIII A to the California Constitution, among other things, affects the valuation of real property for the purpose of taxation in that it defines the full cash value of property to mean "the county assessor's valuation of real property as shown on the 1975-76 tax bill under full cash value, or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment." The full cash value may be adjusted annually to reflect inflation at a rate not to exceed two percent per year, or any reduction in the consumer price index or comparable local data, or any reduction in the event of declining property value caused by damage, destruction or other factors.

Article XIII A further limits the amount of any *ad valorem* tax on real property to one percent of the full cash value except that additional taxes may be levied to pay debt service on indebtedness approved by the voters prior to July 1, 1978. In addition, an amendment to Article XIII was adopted in August 1986 by initiative that exempts any bonded indebtedness approved by two-thirds of the votes cast by voters for the acquisition or improvement of real property from the one percent limitation. On December 22, 1978, the California Supreme Court upheld the amendment over challenges on several state and federal constitutional grounds (*Amador Valley Joint Union School District v. State Board of Equalization*).

In the general election held on November 4, 1986, voters of the State of California approved two measures, Propositions 58 and 60, which further amended Article XIII A. Proposition 58 amended Article XIII A to provide that the terms "purchased" and "change of ownership," for purposes of determining full cash value of property under Article XIII A, do not include the purchase or transfer of (1) real property between spouses and (2) the principal residence and the first \$1,000,000 of other property between parents and children. Proposition 60 amended Article XIII A to permit the Legislature to allow persons over age 55 who sell their residence to buy or build another of equal or lesser value within two years in the same county, to transfer the old residence's assessed value to the new residence. Pursuant to Proposition 60, the Legislature has enacted legislation permitting counties to implement the provisions of Proposition 60.

Article XIII A has subsequently been amended to permit reduction of the "full cash value" base in the event of declining property values caused by damage, destruction or other factors, to provide that there would be no increase in the "full cash value" base in the event of reconstruction of property damaged or destroyed in a disaster and in certain other minor or technical ways.

Article XIII A Implementing Legislation

Legislation has been enacted and amended a number of times since 1978 to implement Article XIII A. Under current law, local agencies are no longer permitted to levy directly any property tax (except to pay voter-approved indebtedness). The one percent property tax is automatically levied by the county and distributed according to a formula among taxing agencies. The formula apportions the tax roughly in proportion to the relative shares of taxes levied prior to 1978.

Increases of assessed valuation resulting from reappraisals of property due to new construction, change in ownership or from the two percent annual adjustment are allocated among the various jurisdictions in the “taxing area” based on their respective “situs.” Any such allocation made to a local agency continues as part of its allocation in future years.

Beginning in the 1981-82 fiscal year, assessors in California no longer record property values on tax rolls at the assessed value of 25 percent of market value, which was expressed as \$4.00 per \$100 of assessed value. All taxable property is now shown at full market value on the tax rolls. Consequently, the tax rate is expressed as \$1.00 per \$100 of taxable value. Unless otherwise noted, all taxable property value included in this Official Statement (unless noted differently) is shown at 100 percent of market value and all tax rates reflect the \$1 per \$100 of taxable value.

Challenges to Article XIII A

California trial and appellate courts have upheld the constitutionality of Article XIII A’s assessment rules in three significant cases. The United States Supreme Court, in an appeal to one of these cases, upheld the constitutionality of Article XIII A’s tax assessment system. The City cannot predict whether there will be any future challenges to California’s present system of property tax assessment and cannot evaluate the ultimate effect on the City’s receipt of property tax revenues should a future decision hold unconstitutional the method of assessing property.

County of Orange vs. Orange County Assessment Appeals Board

On November 2, 2001, the Orange County Superior Court issued a Minute Order in the case of *County of Orange vs. Orange County Assessment Appeals Board No. 3* (the “Pool Case”). The Pool Case involved the assignment of assessed value to a property that exceeded the prior year’s assessed value by more than two percent.

The increase of a property’s assessed value by more than two percent is a common practice among California assessors. Such adjustments occur when: (1) the prior year value of the property is less than the base year value of the property (*i.e.*, the value assigned upon change of ownership or new construction), and (2) the current year market value of the property is equal to or higher than the base year value determined for the current year. These two conditions often exist when the prior year value of the property was reduced at taxpayer’s request through a process commonly referred to a “Proposition 8 appeal” and, subsequently, the condition causing the reduction (*e.g.*, recession in the real estate market) has ceased to influence the value of the property. Several occurrences in recent years, including natural disasters and economic downturns, have resulted in the downward valuation of taxable property. Following these occurrences, assessors have restored value at rates which may exceed two percent given the success of repairs following a disaster or the speed of a rebound from an economic downturn.

In the Pool Case, the residence at issue was purchased in 1995 in the City of Seal Beach in southern California. Due to a flat real estate market, the home’s assessed value stayed the same for two years. When the market value of the home increased in 1998-99, the County of Orange enrolled an

assessed value which represented the 1996-97 base year adjusted for an annual two percent rate for the 1997-98 tax year and the 1998-99 tax year. In effect, the assessed value in 1998-99 was an increase of four percent from the 1997-98 tax year. Orange County contended that it was entitled to recapture the two percent adjustment it had not previously utilized in 1997-98, as well as the two percent adjustment for 1998-99. In December 2001, the Superior Court declared Orange County's practice of "recapturing" to be unconstitutional. In December 2002, the court certified a "class action" status for the case and defined the class of potential plaintiffs to include all of the people in Orange County subject to the recapture.

In 2002, two other Superior Courts (Los Angeles and San Diego) ruled differently on the recapture issue. Therefore, the issues of uniformity and equal protection for each taxpayer statewide needed to be addressed. The Superior Court in the Pool Case entered a Final Judgment on April 18, 2003, and released the case from the lower court. On June 12, 2003, the Orange County Assessor and Tax Collector, in conjunction with the County of Orange, appealed. The Court of Appeal of the State of California, Fourth District, Division Three, held a hearing on the matter on January 7, 2004, and issued its ruling on March 26, 2004, overturning the trial court. The Court of Appeal concluded, "The more natural reading of Article XIII A, Section 2, Subdivision (b) is that the base on which the inflation factor is figured remains that of the original purchase price (or assessment at time of genuine new construction), not any reduced base resulting with a general deflation or a disaster.... Accordingly, we conclude that the trial court erred in ruling that assessments are always limited to no more than two percent of the previous year's assessment."

On May 7, 2004, the plaintiff filed a petition for review with the California Supreme Court. The City is unable to predict the outcome of the such appeal in the event that the California Supreme Court decides to review the case or the effect on property tax revenues to the City, if such an appeal was to be successful.

Appropriations Limitations: Article XIII B

On November 6, 1979, California voters approved Proposition 4, the so-called Gann Initiative, which added Article XIII B to the California Constitution. Article XIII B limits the annual appropriations of the State and any city, county, school district, authority or other political subdivision of the State to the level of appropriations for the prior fiscal year, as adjusted for changes in the cost of living, population and services rendered by the government entity. The "base year" for establishing such appropriations limit is the 1978-79 fiscal year, and the limit is to be adjusted annually to reflect changes in population, consumer prices and certain increases in the cost of services provided by these public agencies.

Effective November 1980, the California Legislature added Section 33678 to the Redevelopment Law. Section 33678 provides that the allocation of tax increment revenues to a redevelopment agency for the purpose of paying principal of, or interest on, loans, advances, or indebtedness shall not be deemed the receipt by such agency of proceeds of taxes levied by or on behalf of the agency within the meaning of Article XIII B, nor shall such portion of taxes be deemed receipt of taxes by, or an appropriation subject to the limitation of, any other public body within the meaning or for the purpose of the Constitution and laws of the State of California, including Section 33678 of the Redevelopment Law. The constitutionality of Section 33678 has been upheld in two California appellate court decisions. On the basis of these court decisions, the Agency does not believe it is subject to Article XIII B and has not adopted an appropriations limit.

Proposition 218: Article XIII C and Article XIII D

On November 5, 1996, California voters approved Proposition 218 – Voter Approval for Local Government Taxes – Limitation on Fees, Assessments, and Charges-Initiative Constitutional

Amendment, commonly known as “Proposition 218.” Proposition 218 added Articles XIII C and XIII D to the California Constitution, imposing certain vote requirements and other limitations on the imposition of new or increased taxes, assessments and property-related fees and charges.

Proposition 218 also provides that the constitutional initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local taxes, assessments, fees and charges. This provision with respect to the initiative power is not limited to taxes imposed on or after November 6, 1996, the effective date of Proposition 218. However, on July 1, 1997, a bill was signed into law by the Governor of the State enacting Government Code 5854, which states: “Section 3 of Article XIII C of the California Constitution, as adopted at the November 5, 1996 general election, shall not be construed to mean that any owner or beneficial owner of a municipal security, purchased before or after that date, assumes the risk of, or in any way consents to, any action by initiative measure that constitutes an impairment of contractual rights protection by Section 10 of Article I of the United States Constitution.” As a result, although no court has yet considered the relationship between Section 5854 and Article XIII C, it is likely that Proposition 218 has not conferred on the voters the power to repeal or reduce taxes, assessments, fees or charges if such reduction would interfere with the City’s payment of Base Rental Payments.

Proposition 62

On November 4, 1986, California voters adopted Proposition 62, which requires that (i) any local tax for general governmental purposes (a “general tax”) must be approved by a majority vote of the electorate; (ii) any local tax for specific purposes (a “special tax”) must be approved by a two-thirds vote of the electorate; (iii) any general tax must be proposed for a vote by two-thirds of the legislative body; and (iv) proceeds of any tax imposed in violation of the vote requirements must be deducted from the local agency’s property tax allocation.

Most of the provisions of Proposition 62 were affirmed by the 1995 California Supreme Court decision in *Santa Clara County Local Transportation Authority v. Guardino*, which invalidated a special sales tax for transportation purposes because fewer than two-thirds of the voters voting on the measure had approved the tax. The City does not believe any of the taxes constituting City revenues are levied in violation of Proposition 62.

Unitary Property

AB 454 (Chapter 921, Statutes of 1986) provides that revenues derived from most utility property assessed by the State Board of Equalization (“Unitary Property”), commencing with the 1988-89 fiscal year, will be allocated as follows: (i) each jurisdiction will receive up to 102 percent of its prior year State-assessed revenue; and (ii) if county-wide revenues generated from Unitary Property are less than the previous year’s revenues or greater than 102 percent of the previous year’s revenues, each jurisdiction will share the burden of the shortfall or benefit of the excess revenues by a specified formula. This provision applies to all Unitary Property except railroads, whose valuation will continue to be allocated to individual tax rate areas.

The provisions of AB 454 do not constitute an elimination of the assessment of any State-assessed properties nor a revision of the methods of assessing utilities by the State Board of Equalization. Generally, AB 454 allows valuation growth or decline of Unitary Property to be shared by all jurisdictions in a county.

STATE OF CALIFORNIA BUDGET

The following information concerning the State's budget has been compiled from publicly available information provided by the State. The City is not responsible for and makes no representations regarding the information relating to the State's budgets provided in this section.

Budget Process

The State's fiscal year begins on July 1 and ends on June 30. The annual budget is proposed by the Governor by January 10 of each year for the next fiscal year (the "Governor's Budget"). Under State law, the annual proposed Governor's Budget cannot provide for projected expenditures in excess of projected revenues and balances available from prior fiscal years. Following the submission of the Governor's Budget, the Legislature takes up the proposal.

Under the State Constitution, money may be drawn from the Treasury only through an appropriation made by law. The primary source of the annual expenditure authorizations is the Budget Act as approved by the Legislature and signed by the Governor. The Budget Act must be approved by a two-thirds majority vote of each House of the Legislature. The Governor may reduce or eliminate specific line items in the Budget Act or any other appropriations bill without vetoing the entire bill. Such individual line-item vetoes are subject to override by a two-thirds majority vote of each House of the Legislature.

Appropriations also may be included in legislation other than the Budget Act. Bills containing appropriations (except for K-14 education) must be approved by a two-thirds majority vote in each House of the Legislature and be signed by the Governor. Bills containing K-14 education appropriations only require a simple majority vote. Continuing appropriations, available without regard to fiscal year, may also be provided by statute or the State Constitution.

Funds necessary to meet an appropriation need not be in the State Treasury at the time such appropriation is enacted; revenues may be appropriated in anticipation of their receipt.

Proposed Governor's Budget for Fiscal Year 2004-05

On January 9, 2004, Governor Schwarzenegger (the "Governor") released his proposed budget for fiscal year 2004-05 (the "2004-05 Proposed Governor's Budget"). On May 23, 2004, the Governor sent his revised budget plan (the "May Revision") for the fiscal year 2004-05 to the State legislature. According to the Governor's May Revision, State general fund revenues are expected to be \$76.688 billion, which is \$281 million above the 2004-05 Proposed Governor's Budget. The May Revision estimates that the State fiscal year 2004-05 general fund expenditures will be \$ \$77.578 billion, after taking into account the use of \$2.012 billion from proceeds of Economic Recovery Bonds (defined below) to support general fund programs.

The 2004-05 Proposed Governor's Budget plan included the issuance of up to \$15 billion in Economic Recovery Bonds (the "Economic Recovery Bonds"), to finance the State General Fund reserve and other State obligations incurred prior to June 30, 2004. In connection therewith, the 2004-05 Proposed Governor's Budget also included a provision for the creation of a deficit recovery fund to finance what would otherwise be the State General Fund's costs of the existing debt. The amount of Economic Recovery Bond proceeds received but not used to finance the accumulated budget deficit through Fiscal Year 2002-03 will be transferred into this new fund. The new fund is to be used in Fiscal Year 2004-05 to finance outstanding State obligations due in Fiscal Year 2003-04 and Fiscal Year 2004-05. The Economic Recovery Bonds were approved by a majority of voters participating during the

statewide primary election on March 2, 2004. See “*Triple Flip*” below. The State sold the first tranche of the Economic Recovery Bonds, in the principal amount of \$7.922 billion in May 2004 and the second tranche, in the principal amount of approximately \$3 billion, as variable rate bonds in June 2004.

Among the measures proposed in the Governor’s proposed budget that could affect local governments are the following:

Vehicle License Fee Backfill. The State has enacted VLF reductions for the current and prior fiscal years, but under the law authorizing these reductions, the State is required to “backfill” local governments for their revenue losses resulting from the lowered rates, and the VLF rate must be increased whenever there are insufficient moneys in the State general fund to pay for the backfill. The 2004-05 Proposed Governor’s Budget originally provided funding for the State general fund backfill payments to cover a full reduction in the VLF. However, the May Revision deletes the requirement for backfill payments and, instead provides that the amount of the backfill requirement will be met by an increase on the property tax allocation to cities and counties. See “CITY FINANCIAL INFORMATION – Vehicle License Fee”.

Property Tax Shift to ERAF. The 2004-05 Proposed Governor’s Budget includes a \$1.3 billion shift of local government property taxes to the ERAF. The May Revision would apportion the \$1.3 billion among cities (\$350 million), counties (\$350 million), special districts (\$350 million) and redevelopment agencies (\$250 million) and would limit the \$1.3 billion ERAF transfer to fiscal year 2004-05 and 2005-06. In addition, the May Revision proposes a constitutional amendment that, among other things, would prohibit any further transfers of non-educational local government taxes for the benefit of the State.

Deferral of Mandate Reimbursement. The Governor’s budget defers reimbursement to counties, cities and special districts for State mandates (i.e., State-mandated requirements that local agencies must carry out without regard to the timing of State reimbursement of the costs of those mandates).

Other Measures. In addition to the ERAF shift, the budget proposes more than \$400 million of other changes that reduce local government funds or increase local costs, including reduced funding for juvenile probation (\$134 million), suspending Proposition 42 General Fund transfer for local transportation programs (\$179 million), and elimination of booking fee subventions (\$38 million).

Triple Flip. As the result of the passage of the so-called Triple Flip legislation, in conjunction with the March 2, 2004 voter approval of the Economic Recovery Bonds, property tax revenue may represent a greater portion of the City’s General Fund revenue, as compared to prior years. At the same time, sales tax revenue may represent a smaller portion of the City’s General Fund revenue, as compared to prior years. The State’s Economic Recovery Bonds are a general obligation of the State and secured by a pledge of revenues from an increase in the State’s share of the sales and use tax starting July 1, 2004. Under the “Triple Flip” proposal, one-quarter of local governments’ one percent share of the sales tax imposed on taxable transactions within their jurisdiction will be redirected to the State. Such taxes would revert to their current levels when the bonds are repaid. In an effort to eliminate the adverse impact of the sales tax revenue redirection on local government while the Economic Recovery Bonds are outstanding, the legislation provides for property taxes in the ERAF to be redirected to local government. Because the ERAF monies were previously earmarked for schools, the legislation provides for schools to receive other state general fund revenues. It is currently expected that the swap of sales taxes for property taxes would terminate once the deficit financing bonds were repaid.

The City cannot predict whether the State legislature will enact legislation which adopts the Governor’s 2004-05 budget proposal and what actions will be taken in future years by the State

Legislature and the Governor to address the State's current or future budget deficits. Future State budgets will be affected by national and state economic conditions and other factors over which the City has no control. To the extent that the State budget process results in reduced revenues to the City, the City will be required to make adjustments to its budget.

Further information about the State budget is available from the Public Finance Division of the State Treasurer's Office. In addition, information about the State budget is regularly available at various State-maintained websites, including www.dof.ca.gov (Department of Finance), www.lao.ca.gov (Office of the Legislative Analyst) and www.treasurer.ca.gov (State Treasurer). The above-mentioned websites are included herein for informational purposes only. The City makes no representation concerning, and does not take any responsibility for, the accuracy or timeliness of information posted on such websites or the continued maintenance of such websites by the respective entities.

ABSENCE OF LITIGATION

To the Authority's and the City's knowledge, there is no litigation pending or threatened to restrain or enjoin the issuance, execution or delivery of the Bonds, to contest the validity of the Bonds, the Indenture, the Lease, the Sublease or any proceedings of the City or the Authority with respect thereto. In the opinion of the Authority and its counsel, there is no lawsuit or claim pending against the Authority which will materially impair the Authority's ability to entered into the Indenture or restrain or enjoin the collection of Revenues as contemplated therein. In the opinion of the City and its counsel, there is no lawsuit or claim pending against the City which will materially impair the City's ability to entered into the Sublease or restrain or enjoin the payment of Base Rental Payments.

CONTINUING DISCLOSURE

Pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), the City has entered into an agreement with BNY Western Trust Company, as Trustee and Dissemination Agent (the "Dissemination Agent"), for the benefit of holders of the Bonds to provide certain financial information and operating data relating to the City and the balances of funds relating to the Bonds, by not later than February 15 of each Fiscal Year commencing with the report for the 2003-04 fiscal year (the "Annual Information"), and to provide notices of the occurrence of certain enumerated events, if deemed by the City to be material. The Annual Information will be filed by the Dissemination Agent, with each Nationally Recognized Municipal Securities Information Repository (the "NRMSIRS") and with the State Information Depository (the "State Depository"), if any. Notices of material events will be filed by or on behalf of the City with the NRMSIRS or the Municipal Securities Rulemaking Board (the "MSRB") and with the State Depository, if any. The nature of the information to be provided in the Annual Information and the notices of material events is set forth under the caption "APPENDIX E – FORM OF CONTINUING DISCLOSURE AGREEMENT." Except for one prior instance, the City has met all of its filing requirements under other similar continuing disclosure certificates or agreements.

LEGAL MATTERS

The legality of the issuance of the Bonds is subject to the approval of Richards, Watson & Gershon, A Professional Corporation, Los Angeles, California, Bond Counsel. Bond Counsel's opinions with respect to the Bonds will be substantially in the forms set forth in APPENDIX B of this Official Statement. Fees payable to Bond Counsel are contingent upon successful sale and delivery of the Bonds.

TAX MATTERS

In the opinion of Bond Counsel, under existing law, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. Bond Counsel will express no opinion as to any other federal tax consequences regarding the Bonds.

The opinion on federal tax matters will be based on and will assume the accuracy of certain representations and certifications, and continuing compliance with certain covenants, of the Authority and the City that are intended to assure the foregoing, including that the Bonds are and will remain obligations the interest on which is excluded from gross income for federal income tax purposes. Bond Counsel will not independently verify the accuracy of those representations and certifications.

The Code prescribes a number of qualifications and conditions for the interest on state and local government obligations to be and to remain excluded from gross income for federal income tax purposes. Some of these qualifications and conditions require future or continued compliance after issuance of the obligations for the interest to be and to continue to be excluded from the date of issuance. Noncompliance with these qualifications and conditions by the Authority or the City may cause the interest on the Bonds to be included in gross income for federal income tax purposes retroactively to the date of issuance of the Bonds. The Authority and the City have covenanted to take the actions required of it for the interest on the Bonds to be and to remain excluded from gross income for federal income tax purposes, and not to take any actions that would adversely affect that exclusion.

Under the Code, a portion of the interest on the Bonds earned by certain corporations may be subject to a corporate alternative minimum tax. In addition, interest on the Bonds may be subject to a branch profits tax imposed on certain foreign corporations doing business in the United States and to a tax imposed on excess net passive income of certain S corporations.

Under the Code, the exclusion of interest from gross income for federal income tax purposes may have certain adverse federal income tax consequences on items of income, deduction or credit for certain taxpayers, including financial institutions, certain insurance companies, recipients of Social Security and Railroad Retirement benefits, those that are deemed to incur or continue indebtedness to acquire or carry tax-exempt obligations, and individuals otherwise eligible for the earned income tax credit. The applicability and extent of these and other tax consequences will depend upon the particular tax status or other tax items of the owners of the Bonds. Bond Counsel will express no opinion regarding those consequences.

Any excess of the stated redemption price at maturity of the Bonds over the initial offering price to the public of the Bonds set forth on the inside cover of this Official Statement is “original issue discount.” Such original issue discount accruing on a Bond is treated as interest excluded from the gross income of the owner thereof for federal income tax purposes and exempt from California personal income tax. Original issue discount on any Bond purchased at such initial offering price and pursuant to such initial offering will accrue on a semiannual basis over the term of the Bond on the basis of a constant yield method and, within each semiannual period, will accrue on a ratable daily basis. The amount of original issue discount on such a Bond accruing during each period is added to the adjusted basis of such Bond to determine taxable gain upon disposition (including sale, redemption or payment on maturity) of such Bond. The Code includes certain provisions relating to the accrual of original issue discount in the case of purchasers of the Bonds who purchase the Bonds other than at the initial offering price and pursuant to the initial offering. Any person considering purchasing a Bond should consult his or her own tax advisors with respect to the tax consequences of ownership of bonds with original issue discount,

including the treatment of purchasers who do not purchase in the original offering and the original offering price, the allowance of a deduction for any loss on a sale or other disposition, and the treatment of accrued original issue discount on such bonds under federal individual and corporate alternative minimum taxes.

If the Bonds were offered and sold to the public at a price in excess of their stated redemption price (the principal amount) at maturity, that excess constitutes “premium.” For federal income tax purposes, that premium is amortized over the period to maturity of the Bonds, based on the yield to maturity of the Bonds, compounded semiannually. No portion of that premium is deductible by the owner of a Bond. For purposes of determining the owner’s gain or loss on the sale, redemption (including redemption at maturity) or other disposition of a Bond, the owner’s tax basis in the Bond is reduced by the amount of premium that accrues during the period of ownership. As a result, an owner may realize taxable gain for federal income tax purposes from the sale or other disposition of a Bond for an amount equal to or less than the amount paid by the owner for that Bond. A purchaser of a Bond in the initial public offering at the price for that Bond stated on the cover of this Official Statement who holds that Bond to maturity will realize no gain or loss upon the retirement of that Bond. Owners of the Bonds should consult their own tax advisers as to the determination for federal income tax purposes of the amount of premium properly accruable in any period with respect to the Bonds and as to other federal tax consequences and the treatment of premium for purposes of state and local taxes on, or based on, income.

Purchasers of the Bonds at other than their original issuance at the respective prices indicated on the cover of this Official Statement should consult their own tax advisers regarding other tax considerations such as the consequences of market discount.

A copy of the proposed form of opinion of Bond Counsel is attached hereto as APPENDIX B.

FINANCIAL ADVISOR

RBC Dain Rauscher Inc. has acted as financial advisor to the Authority concerning the Bonds. As financial advisor, RBC Dain Rauscher Inc. will receive compensation contingent upon the sale and delivery of the Bonds.

UNDERWRITING

The Authority has awarded the Bonds to _____ (the “Underwriter”) in a competitive sale held on July __, 2004. The Underwriter has agreed, subject to certain conditions, to purchase the Bonds at a purchase price of \$_____, which includes a net original issue [discount/premium] of \$_____ and an underwriter’s discount of \$_____. The Underwriter intends to offer the Bonds to the public initially at the prices set forth on the inside cover page of this Official Statement, which prices may subsequently change without any requirement of prior notice.

RATINGS

Standard & Poor’s (“S&P”) and Moody’s Investors Service (“Moody’s”) have assigned ratings of “AAA” and “Aaa,” respectively, to the Bonds, conditioned on the issuance by the Bond Insurer of the Bond Insurance Policy at the time of delivery of the Bonds. In addition, S&P has assigned an underlying rating of “A+,” and Moody’s has assigned an underlying rating of “A2,” respectively, to the Bonds based on their assessment of the Authority’s ability to make payments with respect to the Bonds without giving effect to the Bond Insurance Policy. Such ratings reflect only the views of such organizations and any desired explanation of the significance of such ratings may be obtained from S&P and Moody’s. Generally, a rating agency bases its rating on the information and materials furnished to it and on

investigations, studies and assumptions of its own. There is no assurance such ratings will continue for any given period of time or that such ratings will not be revised downward or withdrawn entirely by the rating agencies, if in the judgment of such rating agencies, circumstances so warrant. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the Bonds.

FINANCIAL STATEMENTS

Excerpts of the City's Comprehensive Financial Report for fiscal year ended June 30, 2003, which include the City's 2002-03 financial statements and the Independent Auditor's Report issued by Caporicci & Larson, Certified Public Accountants (the "Auditor") regarding such financial statements, are set forth in Appendix A. The Auditor was not requested to consent to the inclusion of its report in Appendix A and it has not undertaken to update financial statements included in Appendix A. No opinion is expressed by the Auditor with respect to any event subsequent to its report.

MISCELLANEOUS

All of the preceding description and summaries of the Bonds, the Indenture and the Sublease, other applicable agreements, legislation and other documents are made subject to the provisions of such documents respectively and do not purport to be complete statements of any or all of such provisions. Reference is hereby made to such documents on file with the City for further information in connection therewith.

Any statements made in this Official Statement involving matters of opinion or of estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized.

The Authority and the City have duly authorized the execution and delivery of this Official Statement by the President of the Authority and the Mayor of the City.

MORGAN HILL FINANCING AUTHORITY

By: _____
Chief Administrative Officer

CITY OF MORGAN HILL

By: _____
City Manager

APPENDIX A

EXCERPTS OF

CITY OF MORGAN HILL COMPREHENSIVE FINANCIAL REPORT

FOR YEAR ENDED JUNE 30, 2003

APPENDIX B

FORM OF OPINION OF BOND COUNSEL

Upon issuance and delivery of the Bonds, Richards, Watson & Gershon, A Professional Corporation, Bond Counsel, proposes to render its final approving opinion in substantially the following form:

[Closing Date]

Morgan Hill Financing Authority
17555 Peak Avenue
Morgan Hill, California 95037-4128

Opinion of Bond Counsel

with reference to

\$ _____
Morgan Hill Financing Authority
Lease Revenue Bonds
(Police Facility)
Series 2004

Ladies and Gentlemen:

We have examined (i) a record of proceedings relating to the issuance of the above-captioned bonds (the “Bonds”) of the Morgan Hill Financing Authority, a public entity of the State of California (the “Authority”), (ii) the Indenture, dated as of July 1, 2004 (the “Indenture”), by and between the Authority and BNY Western Trust Company, as trustee (the “Trustee”), (iii) the Sublease Agreement, dated as of July 1, 2004, by and between the Authority and the City, and (iv) such other matters of law as we have deemed necessary to enable us to render the opinions expressed herein. As to questions of fact material to this opinion, we have relied upon such certificates and documents without undertaking to verify the same by independent investigation.

The Bonds are issued under and pursuant to the Indenture and the provisions relating to the joint exercise of powers found in Chapter 5 of Division 7 of Title 1 of the Government Code of California, as amended (the “Act”), including the provisions of the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 of the Act. The Bonds are issued for the purpose of assisting the City in financing the acquisition and improvement costs of a new City police headquarters and related facilities.

We are of the opinion that:

1. The Indenture has been duly and lawfully authorized, executed and delivered by the Authority and, assuming due authorization, execution and delivery by the Trustee, is in full force and effect in accordance with its terms and is valid and binding upon the Authority and enforceable in accordance with its terms, and no other authorization for the Indenture is required. The Indenture creates the valid pledge which it purports to create of (i) the Revenues (as defined in the Indenture) and (ii) certain funds established by the Indenture, including the investments, if any, thereof; subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture.

2. The Authority is duly authorized and entitled to issue the Bonds, and the Bonds have been duly and validly authorized and issued by the Authority in accordance with the Constitution and

statutes of the State of California, including the Act, and in accordance with the Indenture. The Bonds constitute the valid and binding obligations of the Authority as provided in the Indenture, are enforceable in accordance with their terms and the terms of the Indenture and are entitled to the benefits of the Act and the Indenture. The Bonds are not an obligation of the State of California, any public agency thereof (other than the Authority), or any member of the Authority and neither the faith and credit nor the taxing power of the State of California or any public agency thereof or any member of the Authority is pledged for the payment of the Bonds. The Authority has no taxing power.

3. Interest on the Bonds is exempt from personal income taxes of the State of California and, assuming compliance with the covenant described below, is excluded from gross income for Federal income tax purposes. The Bonds are not “specified private activity bonds” within the meaning of Section 57(a)(5) of the Internal Revenue Code of 1986, as amended (the “Code”) and, therefore, interest on the Bonds will not be treated as a preference item for purposes of computing the alternative minimum tax imposed by Section 55 of the Code. However, we note a portion of the interest on Bonds owned by corporations may be subject to the Federal alternative minimum tax, which is based in part on adjusted current earnings.

The Code sets forth certain requirements which must be met subsequent to the issuance and delivery of the Bonds for interest thereon to be and remain excluded from gross income for Federal income tax purposes. Noncompliance with such requirements could cause the interest on the Bonds to be included in gross income retroactive to the date of issue of the Bonds. The Authority has covenanted in the Indenture to satisfy, or take such actions as may be necessary to cause to be satisfied, each provision of the Code necessary to maintain the exclusion of the interest on the Bonds from gross income for Federal income tax purposes pursuant to Section 103(a) of the Code.

Certain requirements and procedures contained or referred to in the Indenture and other relevant documents may be changed and certain actions may be taken, under the circumstances and subject to the terms and conditions set forth in such documents, upon the advice or with the approving opinion of nationally recognized bond counsel. We express no opinion as to any Bond, or the interest thereon, if any change occurs or action is taken upon the advice or approval of other bond counsel.

Except as stated in the foregoing paragraph numbered 3 and the paragraph immediately following paragraph 3, we express no opinion as to any Federal or state tax consequences of the ownership or disposition of the Bonds.

The opinions expressed in the paragraphs numbered 1 and 2 hereof are qualified to the extent that the enforceability of the Indenture and the Bonds may be limited by any applicable bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors’ rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public entities in the State of California. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum or waiver provisions contained in the foregoing documents.

The opinions expressed herein are based on an analysis of existing law and cover certain matters not directly addressed thereby. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof, and we have not undertaken to determine, or to inform any person, whether any such actions or events are taken or do occur. We have assumed the genuineness of all documents and signatures presented to us. We have not undertaken to verify independently, and have assumed, the accuracy of the factual matters represented, warranted or certified in such documents.

Respectfully submitted,

APPENDIX C
SUMMARY OF PRINCIPAL LEGAL DOCUMENTS

APPENDIX D

DTC'S BOOK-ENTRY ONLY SYSTEM

The information in this Appendix concerning DTC and DTC's book-entry system has been obtained from sources that the Authority believes to be reliable, but neither the Authority nor the City takes any responsibility for the accuracy thereof. The Authority and the City give no assurances that (i) DTC, the Direct and Indirect Participants or others will distribute payments of principal, premium (if any) or interest with respect to the Bonds paid to DTC or its nominee as, the registered owner, to the Beneficial Owners, (ii) such entities will distribute redemption notices or other notices, to the Beneficial Owners, or (iii) an error or delay relating thereto will not occur.

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for the each maturity of the Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 85 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Government Securities Clearing Corporation, MBS Clearing Corporation, and Emerging Markets Clearing Corporation, (NSCC, GSCC, MBSCC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on

behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds: DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, premium (if any) and interest payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Authority or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, the Authority or the Trustee, subject to any statutory or regulatory requirements as may be in effect from time to time. Principal, premium (if any) and interest payments with respect to the Bonds to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the Authority or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered in accordance with the provisions of the Indenture.

APPENDIX E

FORM OF CONTINUING DISCLOSURE AGREEMENT

This **Continuing Disclosure Agreement** (the “Disclosure Agreement”) is executed and delivered on this July 1, 2004, by the City of Morgan Hill (the “City”) and BNY Western Trust Company, in its capacities as Trustee (the “Trustee”) under the Indenture (hereinafter defined) and Dissemination Agent, in connection with the issuance of \$_____ Morgan Hill Financing Authority Lease Revenue Bonds (Police Facility), Series 2004 (the “Bonds”).

The Bonds are being issued pursuant to an Indenture of Trust, dated as of July 1, 2004 (the “Indenture”), by and between the Morgan Hill Financing Authority and the Trustee. Proceeds of the Bonds will be used by the Authority to assist the City of Morgan Hill (the “City”) in the financing of acquisition and improvement costs of a new police facility. The Bonds will be payable solely from Revenues (as defined in the Indenture) and certain funds and accounts held under the Indenture. Revenues consist primarily of Base Rental Payments payable by the City pursuant to a Sublease Agreement, dated as of July 1, 2004, by and between the Authority and the City.

The City, the Trustee and the Dissemination Agent hereby covenant and agree as follows:

Section 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

“Disclosure Representative” shall mean the City Manager of the City or his or her designee, or such other person as the City shall designate in writing to the Trustee and the Dissemination Agent from time to time.

“Dissemination Agent” shall mean the BNY Western Trust Company, acting in its capacity as the Dissemination Agent hereunder or any successor Dissemination Agent designated in writing by the City and which has filed with the City and the Trustee a written acceptance of such designation.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

“National Repository” shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule.

“Official Statement” shall mean the final Official Statement, dated July __, 2004, relating to the Bonds.

“Owners” shall mean the registered owners of the Bonds or, if the Bonds are registered in the name of a depository, the beneficial owners of the Bonds.

“Participating Underwriter” shall mean the original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“Repository” shall mean each National Repository and each State Repository.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State Repository” shall mean any public or private repository or entity designated by the State of California as a state repository for the purpose of the Rule. As of the date of this Disclosure Agreement, there is no State Repository.

Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than February 15 of each year, commencing with the report for the 2003-04 fiscal year, provide to each Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement, with a copy to the Trustee. Not later than fifteen (15) Business Days prior to said date, the City shall provide the Annual Report to the Dissemination Agent and the Trustee (if the Trustee is not the Dissemination Agent). The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report, and later than the date required above for the filing of the Annual Report if not available by that date. If the City’s fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c) hereof. The City shall provide a written certification with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by it hereunder. The Dissemination Agent may conclusively rely upon such certification of the City and shall have no duty or obligation to review such Annual Report.

(b) If within fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to the Repositories, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with subsection (a).

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to the Repositories by the date required in subsection (a), the Dissemination Agent shall send a notice to that effect to the Municipal Securities Rulemaking Board in substantially the form attached hereto as Exhibit A.

(d) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Report the name and address of each National Repository and each State Repository, if any, and

(ii) if the Annual Report has been furnished to the Dissemination Agent, file a report with the City and the Trustee (if the Dissemination Agent is not the Trustee) certifying that the Annual Report has been provided pursuant to this Disclosure

Agreement, stating the date it was provided and listing all the Repositories to which it was provided.

Section 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following:

(a) Audited Financial Statements of the City for the most recent fiscal year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board, and as further modified according to applicable State law. If the City's audited financial statements are not available at the time the Annual Report is required to be filed pursuant to Section 3(a) hereof, the Annual Report shall contain unaudited financial statements in a format similar to the usual format utilized by the City, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available; and

(b) Outstanding principal amount of the Bonds and the balance of the Reserve Account relating to the Bonds, as of the preceding December 31st.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which have been submitted to each of the Repositories or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (7) Modifications to rights of Bond Owners;
- (8) Optional, contingent or unscheduled Bond calls;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds;
- (11) Rating changes.

(b) The Trustee shall, promptly upon obtaining actual knowledge of the occurrence of any of the Listed Events contact the Disclosure Representative, inform such person of the event, and request that the City promptly notify the Dissemination Agent in writing whether the Listed Event is material and, if so, whether or not to report the event pursuant to subsection (f), and promptly notify the Trustee in writing whether or not to report the event to the Owners (unless notice to the Owners is already required by the Indenture). For purposes of this Disclosure Agreement, "actual knowledge" of the

occurrence of such Listed Events shall mean actual knowledge by the officer at the Trust Office of the Trustee with regular responsibility for the administration of the Indenture

(c) Whenever the City obtains knowledge of the occurrence of a Listed Event, whether because of a notice from the Trustee pursuant to subsection (b) or otherwise, the City shall as soon as possible determine if such event would be material under applicable federal securities law.

(d) If the City determines that knowledge of the occurrence of a Listed Event would be material under applicable federal securities law, the City shall promptly notify the Dissemination Agent and the Trustee in writing. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (f) and shall instruct the Trustee to report the occurrence to the Owners of the Bonds affected by the occurrence of such event.

(e) If in response to a request under subsection (b), the City determines that the Listed Event is not material, the City shall so notify the Dissemination Agent and the Trustee in writing and instruct the Dissemination and the Trustee to not report the event.

(f) If the Dissemination Agent has been instructed by the City to report the occurrence of a Listed Event, the Dissemination Agent shall promptly file a notice of such occurrence with the Municipal Securities Rulemaking Board and each Repository, with a copy to the Trustee. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds pursuant to the Indenture.

Section 6. Termination of Reporting Obligation. The City's obligations under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination on the same manner as for a Listed Event under Section 5(c) hereof.

Section 7. Dissemination Agent. The City may, from time to time, appoint or engage a Disseminating Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be BNY Western Trust Company. The Dissemination Agent may resign by giving thirty (30) days written notice to the City and the Trustee.

Section 8. Amendment; Waiver. Notwithstanding any other provision herein to the contrary, any provision in the Disclosure Agreement may be amended or waived (and the Trustee and the Dissemination Agent shall agree to any such amendment or waiver requested by the City, provided that neither the Trustee nor the Dissemination Agent shall be obligated to enter into any amendment or agree to any waiver that modifies or increases its duties or obligations hereunder), provided that the following conditions are satisfied:

(a) the amendment or waiver, if it relates to annual or event information to be provided, is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the City or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would have complied with the requirements of the Rule at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances;

(c) the proposed amendment or waiver (i) is approved by Owners of the Bonds in the manner provided in the Indenture for amendments to the Indenture with the consent of Owners, or (ii) does not, in the opinion of the Trustee or nationally recognized bond counsel, materially impair the interest of Owners; and

(d) no amendment increasing or affecting the obligations or duties of the Dissemination Agent or the Trustee shall be made without the consent of either party.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the annual financial information containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to the undertaking specifying the accounting principles to be followed in preparing financial statements, the annual financial information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the City to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative. A notice of the change in the accounting principles shall be sent to the Repositories.

Section 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If Agency chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the City shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 10. Default. In the event of a failure of the City to comply with any provision of this Disclosure Agreement, the Trustee at the written request of any Participating Underwriter or holders of at least a majority in aggregate amount of Outstanding Bonds, shall, but only to the extent indemnified to its satisfaction from and against any loss, cost, expense or liability of any kind whatsoever, including, without limitation, fees and expenses of its attorneys and additional fees and expenses of the Trustee, or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Agreement in the event of any failure of the City, the Trustee or the Dissemination Agent to comply with this Disclosure Agreement shall be an action to compel performance.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as amended from time to time and

all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall have no duty or obligation to review any information provided to them hereunder and shall not be deemed to be acting in any fiduciary capacity hereunder for the City, the Owners, or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

Section 12. Beneficiaries. The Disclosure Agreement shall inure solely to the benefit of the City, the Dissemination Agent, the Trustee, the Participating Underwriter and holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 13. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Disclosure Agreement on the date first written above.

CITY OF MORGAN HILL

By: _____
City Manager

BNY WESTERN TRUST COMPANY,
as Trustee and Dissemination Agent

By: _____
Authorized Officer

EXHIBIT A

NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD OF
FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Morgan Hill Financing Authority

Name of Bond Issue: \$_____ Lease Revenue Bonds (Police Facility), Series 2004

Date of Issuance: July __, 2004

NOTICE IS HEREBY GIVEN that the City of Morgan Hill (the "City") has not provided an Annual Report with respect to the above-named Bonds as required by Section 3 of the Continuing Disclosure Agreement, dated July 1, 2004, executed by and between the City and BNY Western Trust Company, as Trustee and Dissemination Agent. The City anticipates that the Annual Report will be filed by _____.

Dated: _____, 20__.

BNY WESTERN TRUST COMPANY,
as Dissemination Agent on behalf of the City of
Morgan Hill

By: _____
Name: _____
Title: _____

cc: City of Morgan Hill, City Manager

APPENDIX F
SPECIMEN OF BOND INSURANCE POLICY

APPENDIX G
FORM OF NOTICE INVITING BIDS

Recording requested by and when
recorded mail to:

Morgan Hill Financing Authority
c/o Richards, Watson & Gershon,
A Professional Corporation
355 South Grand Avenue, 40th Floor
Los Angeles, California 90071
Attention: William L. Strausz, Esq.

ASSIGNMENT AGREEMENT

by and between the

MORGAN HILL FINANCING AUTHORITY

and

BNY WESTERN TRUST COMPANY
as Trustee

Dated as of July 1, 2004

Exempt from recording fees pursuant to Government Code Section 6103. This Assignment Agreement is exempt from Documentary Transfer Tax pursuant to Revenue and Taxation Code Section 11901, et seq.

ASSIGNMENT AGREEMENT

This Assignment Agreement (the "Agreement"), dated as of July 1, 2004, is made by and between the Morgan Hill Financing Authority, a joint powers agency duly organized and existing pursuant to the laws of the State of California (the "Authority"), and BNY Western Trust Company, a state banking corporation, duly organized and existing under and by virtue of the laws of the State of California, as Trustee (the "Trustee").

RECITALS:

A. The Authority and the City of Morgan Hill, California (the "City"), have executed and entered into a Sublease Agreement, dated as of even date herewith (the "Sublease"), under which the Authority subleases to the City, as provided therein, certain parcel of land described in the Exhibit A attached hereto, together with the police facility and all the other improvements constructed thereon, and incorporated by reference (collectively, the "Project").

B. Pursuant to the Sublease, the City is obligated to make certain rental payments to the Authority for the sublease of the Project.

C. The Authority desires to assign to the Trustee, without recourse, all of the Authority's rights to receive "Base Rental" payments scheduled or required to be paid by the City under and pursuant to the Sublease.

D. In consideration of such assignment and the execution and entering into of an Indenture, dated as of even date herewith (the "Indenture"), by and between the Authority and the Trustee, the Authority has agreed to issue its Lease Revenue Bonds (Police Facility), Series 2004, in an aggregate principal amount of \$_____ (the "Bonds").

E. The Authority has determined that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of the Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into the Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

SECTION 1. DEFINITIONS.

Unless context clearly requires otherwise, all capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

SECTION 2. ASSIGNMENT.

The Authority hereby transfers in trust and assigns to the Trustee, for the benefit of the Owners from time to time of the Bonds, all of the right, title and interest of the Authority in the Sublease (except the Authority's rights to indemnification and payment or reimbursement for any costs or expenses thereunder), including the Authority's rights to receive the Base Rental Payments scheduled to be paid by the City under and pursuant to the Sublease, and any and all of the other rights of the Authority under the Sublease as may be necessary to enforce payment of such Base Rental Payments when due or otherwise to protect the interest of the Owners of the Bonds.

SECTION 3. ACCEPTANCE.

The Trustee hereby accepts the foregoing assignment for the benefit of the Bond Owners, subject to the conditions and terms of the Indenture, and all such Base Rental Payments shall be applied and all such rights so assigned shall be exercised by the Trustee under and pursuant to the Indenture. This Agreement shall confer no rights and shall impose no obligations upon the Trustee beyond those expressly provided in the Indenture.

SECTION 4. MISCELLEOUS.

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

This Agreement shall be binding on and inure to the benefit of the parties hereto, and their successors and assigns.

This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same instrument. It shall be necessary to account for only one set of such counterparts in proving this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed and entered into the Agreement by their authorized signatories thereunto duly authorized as of the day and year first above written.

MORGAN HILL FINANCING AUTHORITY

By _____
Chief Administrative Officer

BNY WESTERN TRUST COMPANY,
as Trustee

By _____
Authorized Officer

EXHIBIT A

Description of the Site

That certain real property situated in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

State of California }
County of _____ }

On _____, 20____, before me, _____, a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity(ies), and that by his/her signature(s) on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature

(seal)

State of California }
County of _____ }

On _____, 20____, before me, _____, a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity(ies), and that by his/her signature(s) on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature

(seal)

OFFICIAL NOTICE INVITING BIDS
\$7,350,000*
MORGAN HILL FINANCING AUTHORITY
LEASE REVENUE BONDS
(POLICE FACILITY)
SERIES 2004

NOTICE IS HEREBY GIVEN that faxed or electronic bids for the purchase of \$7,350,000* principal amount of Morgan Hill Financing Authority Lease Revenue Bonds (Police Facility), Series 2004 (the “Bonds”) will be received by the Morgan Hill Financing Authority (the “Authority”) at the place, in the manner and, subject to postponement (as described herein under the caption “TERMS OF SALE – Postponement”), at the time and date specified below:

- Date and Time: **9:00 A.M. California Time on Tuesday, July 14, 2004**, and so long as a proposal has not theretofore been accepted by the Authority, on any date thereafter without further advertising.
- Electronic Bids Bid proposals may be submitted electronically through PARITY® (“Parity”), as provided below.
- Faxed Bids: Bid proposals may be submitted by facsimile; however, none of the Authority, the City Morgan Hill (the “City”), RBC Dain Rauscher, Financial Advisor to the Authority, nor Richards, Watson & Gershon, A Professional Corporation, Bond Counsel, takes any responsibility for any difficulties in transmitting bids prior to the 9:00 A.M. deadline. The number to be used to transmit telecopied bids is (415) 445-8679.

See “TERMS OF SALE – Warnings Regarding Faxed Bids” and “ – Warnings Regarding Electronic Bids” herein.

SEAL BIDS WILL NOT BE ACCEPTED.

Terms of Bonds; Preliminary Official Statement: The terms of issuance, principal, and interest payment, redemption, security, tax exemption and all other information regarding the Bonds and the Authority are given in the Preliminary Official Statement for the Bonds, dated July __, 2004 (the “Preliminary Official Statement”), which each bidder must have obtained and reviewed prior to bidding for the Bonds. This Official Notice Inviting Bids contains certain information for quick reference only, is not a summary of the issue and governs only the terms of the sale of, bidding for and closing procedures with respect to the Bonds. Bidders must read the entire Preliminary Official Statement to obtain information essential to the making of an informed investment decision. Capitalized terms used herein and not defined herein shall have the meanings set forth in the Preliminary Official Statement. The Bonds will be issued pursuant to an Indenture, dated as of July 1, 2004 (the “Indenture”), by and between the Authority and BNY Western Trust Company, as trustee (the “Trustee”).

Receipt of Bids: The bids will be received on the date, at the time and place on the dates shown above and will be presented to a duly authorized officer of the Authority who will, on behalf of the Authority, determine and accept the conforming bid with the lowest true interest cost as the best bid for the Bonds, subject to the Authority’s right to reject any and all bids as set forth below.

Book-Entry Only: The Bonds will be issued in book-entry form only, initially registered in the name of CEDE & CO., as nominee of The Depository Trust Company, New York, New York (“DTC”). Individual purchases will be made in the maturities described below under the caption “TERM OF BONDS – Maturities.” Payments of principal and interest to DTC shall be the responsibility of the Trustee and disbursement of such payments to the beneficial owners shall be the responsibility of DTC’s direct-participants or indirect participants. The fees and charges of DTC shall be borne by the prevailing bidder.

TERMS OF BONDS

Issue; Security: The Bonds are issuable in the aggregate principal amount of \$7,350,000* consisting of fully registered bonds in denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of the Bonds maturing at any one time, all dated as of their date of delivery, and comprising all of the Bonds authorized. The Bonds will be issued pursuant to, and are more particularly described in the Indenture. The Bonds are primarily payable from Revenues, consisting of certain rental payments (the “Base Rental Payments”) to be made by the City to the Authority pursuant to a Sublease Agreement, dated as of July 1, 2004 (the “Sublease”), by and between the Authority and the City. The City will covenant under the Sublease to take such action as necessary to include the Base Rental Payments in its annual budget and to make all necessary appropriations therefor (subject to abatement under certain circumstances described in the Sublease). Copies of the Indenture and the Sublease will be furnished to any interested bidder upon request.

Authority; Purpose: The Bonds are to be issued by the Authority under and pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code) to (i) assist the City in financing a portion of the acquisition and construction costs of the new City police headquarters and related facilities, (ii) to fund a reserve account for the Bonds, and (iii) pay costs of issuance of the Bonds.

Maturities: The Bonds will mature or be subject to mandatory sinking account redemption on July 15 in each of the years 20__ to 20__ inclusive, as set forth below. Each bidder may specify in its bid whether, for any particular year, the Bonds will be term bonds subject to mandatory sinking account redemption in the applicable principal amount set forth in the bid form. Interest on the Bonds will be payable on each January 15 and July 15, commencing January 15, 2005. Other criteria for setting the maturity amounts of the Bonds are described under the “TERMS OF SALE” below.

* Preliminary subject to change.

Maturity Date (July 15)	Principal Amount*	Maturity Date (July 15)	Principal Amount*
2005		2020	
2006		2021	
2007		2022	
2008		2023	
2009		2024	
2010		2025	
2011		2026	
2012		2027	
2013		2028	
2014		2029	
2015		2030	
2016		2031	
2017		2032	
2018		2033	
2019		2034	

Adjustment of Principal Amount of Maturity: The Authority reserves the right to increase or decrease the principal amount of any maturity of the Bonds, as the Authority deems advisable in order to accomplish its financing objectives. Notice of such increase or decrease shall be given by the Authority to the successful bidder as soon as practicable following the notification of award. No such adjustment will have the effect of altering the basis upon which the best bid is determined or shall change the aggregate principal amount of the Bonds to be issued by more than 10.0%.

Delivery and Payment: The Bonds will be issued in book-entry-only form registered in the name of Cede & Co. (DTC's partnership nominee). Prior to the day of closing, which is currently estimated to be on July 15, 2004, the Bonds, in the form of a single typewritten certificate for each maturity of Bonds, will be delivered to DTC. Payment for the Bonds must be made by wire transfer to the Trustee for the benefit of the Authority in immediately available funds. Any expense of providing immediately available funds, whether by transfer of Federal Reserve Bank funds or otherwise, shall be borne by the winning bidder. Upon closing, the Trustee shall notify DTC of receipt of payment by the purchaser, at which time DTC (in accordance with the Letter of Representations defined below) will credit the account of the successful bidder and process the book-entry deliveries to the accounts of the subsequent purchasers of interests in the Bonds. On each January 15 and July 15, commencing January 15, 2005, the Trustee shall remit to DTC funds to pay all outstanding principal and interest due with respect to the Bonds.

To induce DTC to accept the Bonds as eligible for the book-entry-only form of issuance, the Authority has heretofore executed a Letter of Representations with DTC setting forth the terms and conditions of, and procedures for, the book-entry-only form of issuance. The successful bidder shall complete and provide to DTC's Underwriting Department the Eligibility Questionnaire in the form required by DTC not later than five (5) business days prior to closing.

Redemption from Optional Prepayments of Base Rental: The Bonds maturing on or after July 15, 20__ are subject to redemption prior to their respective maturity dates, as a whole or in part, on any date, from prepayments of Base Rental made at the option of the City pursuant to the Sublease, at the following respective redemption prices (expressed as percentages of the principal amount of the Bonds to be redeemed), plus accrued interest thereon to the date of redemption:

<u>Redemption Date</u>	<u>Redemption Price</u>
July 15, 20__ through July 14, 20__	__ %
July 15, 20__ through July 14, 20__	__ %
July 15, 20__ or thereafter	__ %

Extraordinary Redemption: The Bonds are subject to mandatory redemption, as a whole from prepaid Base Rental Payments made by the City from a condemnation award or from insurance proceeds at the principal amount thereof and accrued interest thereon to the date fixed for redemption, without premium.

Sinking Account Redemption; Purchase in Lieu of Redemption: *Any bidder may, at its option, specify that one or more maturities of the Bonds will consist of term Bonds which are subject to mandatory sinking account redemption in consecutive years immediately preceding the maturity thereof, as designated in the bid of such bidder.* In the event that the bid of the successful bidder specifies that any maturity of Bonds will be term Bonds, such term Bonds will be subject to mandatory sinking account redemption on July 15 in each year so designated in the bid, in the respective amounts for such years as set forth above under the subheading "Maturities," at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium.

Pursuant to the Indenture, in lieu of a sinking account redemption, the Trustee may apply amounts in the Principal Account to purchase term Bonds at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as may be directed by the Authority, except that the purchase price (exclusive of accrued interest) may not exceed the redemption price then applicable to such Bonds; provided, however, that no term Bonds shall be purchased by the Trustee hereunder with a settlement date more than 60 days prior to the date on which the Authority would otherwise making the sinking account redemption on such term Bonds. The principal amount of any Term Bonds so purchased by the Trustee will be credited towards and shall reduce the Principal Account payment otherwise required to be made with respect to such term Bonds on the applicable redemption date.

Selection of Bonds for Redemption: Whenever less than all of the outstanding Bonds maturing on any one date are called for redemption, the Trustee shall select the Bonds to be redeemed from the outstanding Bonds or such given portion thereof not previously called for redemption, among maturities (unless the maturity or maturities are otherwise specified in the Indenture or in writing by the Authority) and by lot within a maturity in any manner which the Trustee in its discretion shall deem appropriate.

TERMS OF SALE

Interest Rate For the Bonds; Purchase Price: The rate or rates bid, as the case may be, may not exceed six percent (6%) per annum for the Bonds, payable commencing January 15, 2005, and semiannually thereafter on January 15 and July 15 of each year. Each rate bid must be a multiple of one-eighth of one percent (1/8 %) or one-twentieth of one percent (1/20 %). All Bonds of the same maturity must carry the same interest rate. No Bond may bear more than one interest rate, and each Bond must bear interest at the rate specified in the bid from its date to its fixed maturity date. **The purchase price bid for the Bonds shall not be less than 98% of the principal amount thereof.** Each bid must be in accordance with all other terms and conditions set forth in this notice. See "TERMS OF SALE – Official Statement and Other Information."

Sinking Account Redemption: Any bidder may, at its option, specify that one or more maturities of Bonds will consist of term bonds which are subject to mandatory sinking account redemption in consecutive years immediately preceding the maturity thereof, as designated in the bid of such bidder. In the event that the bid of the successful bidder specifies that any maturity of Bonds will be a term bond, such term bond will be subject to mandatory sinking account redemption on July 15 in each applicable year in the principal amount for such year as set forth above under the heading "TERM OF BONDS – Maturities," at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium.

Electronic Bids: Electronic bids must conform to the procedures established by Parity. Solely as an accommodation to bidders, electronic bids will be received exclusively through Parity in accordance with this Official Notice of Sale until 9:00 a.m., California time, but no bid will be received after the time specified for receiving bids. To the extent any instructions or directions set forth in Parity conflict with this Official Notice of Sale, the terms of this Official Notice of Sale shall control. For further information about Parity, potential bidders may contact Parity at 40 West 23rd Street, 5th Floor, New York, New York 10010; Telephone: (212) 404-8102.

THE AUTHORITY RETAINS ABSOLUTE DISCRETION TO DETERMINE WHETHER ANY BID, WHETHER FAXED OR ELECTRONIC, IS TIMELY, LEGIBLE AND COMPLETE. THE AUTHORITY TAKES NO RESPONSIBILITY FOR INFORMING ANY BIDDER PRIOR TO THE TIME FOR RECEIVING BIDS THAT ITS BID IS INCOMPLETE, ILLEGIBLE OR NOT RECEIVED.

Warnings Regarding Facsimile Bids: THE RECEIVING FAX MACHINE WILL BE DISCONNECTED AT THE DEADLINE FOR RECEIPT OF BIDS. ANY BIDS PRINTED THEREAFTER BY THE RECEIVING FAX MACHINE, PROVIDED THAT THE INTEREST RATES, TOTAL PURCHASE PRICE AND NAME AND SIGNATURE OF THE BIDDER ARE CLEARLY LEGIBLE, WILL BE CONSIDERED TIMELY; HOWEVER, NEITHER THE CITY, THE AUTHORITY, THE FINANCIAL ADVISOR, NOR BOND COUNSEL SHALL BE RESPONSIBLE FOR, AND THE BIDDER EXPRESSLY ASSUMES THE RISK OF, ANY INCOMPLETE, ILLEGIBLE OR UNTIMELY BID SUBMITTED BY SUCH BIDDER BY FACSIMILE TRANSMISSION, INCLUDING, WITHOUT LIMITATION, BY REASON OF GARBLED TRANSMISSION, MECHANICAL FAILURE, ENGAGED TELEPHONE OR TELECOMMUNICATIONS LINES AT THE PLACE OF BID OPENING.

Warning Regarding Electronic Bids: THE AUTHORITY WILL ACCEPT BIDS IN ELECTRONIC FORM SOLELY THROUGH PARITY ON THE OFFICIAL BID FORM CREATED FOR SUCH PURPOSE. EACH BIDDER SUBMITTING AN ELECTRONIC BID UNDERSTANDS AND AGREES BY DOING SO THAT IT IS SOLELY RESPONSIBLE FOR ALL ARRANGEMENTS WITH PARITY, THAT THE AUTHORITY NEITHER ENDORSES NOR EXPLICITLY ENCOURAGES THE USE OF PARITY, AND THAT PARITY IS NOT ACTING AS AN AGENT OF THE AUTHORITY. INSTRUCTIONS AND FORMS FOR SUBMITTING ELECTRONIC BIDS MUST BE OBTAINED FROM PARTY, AND THE AUTHORITY ASSUMES NO RESPONSIBILITY FOR ENSURING OR VERIFYING BIDDER COMPLIANCE WITH THE PROCEDURES OF PARITY. THE AUTHORITY SHALL ASSUME THAT ANY BID RECEIVED THROUGH PARITY HAS BEEN MADE BY A DULY AUTHORIZED AGENT OF THE BIDDER.

THE AUTHORITY WILL MAKE ITS BEST EFFORTS TO ACCOMMODATE ELECTRONIC BIDS; HOWEVER THE AUTHORITY, THE FINANCIAL ADVISOR AND BOND COUNSEL ASSUME NO RESPONSIBILITY FOR ANY ERROR CONTAINED IN ANY BID SUBMITTED ELECTRONICALLY OR FOR FAILURE OF ANY BID TO BE TRANSMITTED, RECEIVED OR OPENED AT THE OFFICIAL TIME FOR RECEIPT OF BIDS. THE OFFICIAL TIME FOR RECEIPT

OF BIDS WILL BE DETERMINED BY THE AUTHORITY AT THE PLACE OF BID OPENING, AND THE AUTHORITY SHALL NOT BE REQUIRED TO ACCEPT THE TIME KEPT BY PARITY AS THE OFFICIAL TIME.

IN THE EVENT OF A MALFUNCTION IN THE ELECTRONIC BIDDING PROCESS, BIDDERS SHOULD SUBMIT THEIR BIDS ON THE OFFICIAL BID FORM ATTACHED HERETO BY FACSIMILE TO: (415) 445-8679.

Award of Bonds: The Bonds will be awarded by the Authority to the lowest responsible bidder therefor, considering the rate or rates specified and the discount bid or premium offered, if any. The lowest bidder for the Bonds shall be the bidder submitting the price resulting in the lowest true interest cost. The true interest cost will be the nominal interest rate which, when computed semiannually and used to discount the total debt service payments on the Bonds to the dated date of the Bonds, results in an amount equal to the price bid for the Bonds (assuming that any term Bonds are redeemed as scheduled pursuant to mandatory sinking account payments) at the interest rate or rates specified in the bid. In the event that two or more bidders have bid the same interest cost, the award shall be made by lot, subject to the other provisions of this notice.

Right of Rejection: The Authority reserves the right, in its discretion, to reject any and all bids and, to the extent permitted by law, to waive any irregularity, non-conformity or informality in any bid.

Prompt Award: The Authority will take action awarding the Bonds or rejecting all bids for Bonds not later than twenty-six (26) hours after the time herein prescribed for the receipt of bids, unless such time is waived by the successful bidder. Notice of the award will be given promptly to the successful bidder.

Form of Bid for the Bonds: Each bid for the Bonds must be delivered via Parity or faxed to the number set forth above. Each bid must be unconditional and in accordance with the terms and conditions set forth herein, or permitted herein, and, in the case of faxed bids, must be submitted on, or in substantial conformance with, bid forms provided by the Authority.

Deposit: A Good Faith Deposit ("Deposit") in the form of a certified or cashier's check or a Financial Surety Bond in the amount of \$75,000.00, payable to the order of the Authority, is required for each bid to be considered. If a check is used, it must be payable on the date of the bid opening in same day or next day funds and must be delivered to the Authority, care of the City of Morgan Hill, 17555 Peak Avenue, Morgan Hill, CA 95037, Attention: Director of Finance, prior to the time bids are received, and will be returned if such bid is not the winning bid. If a Financial Surety Bond is used, it must be from an insurance company licensed to issue such a bond in the State of California, and such bond must be submitted to the Authority or its Financial Advisor prior to the opening of the bids. The Financial Surety Bond must identify each bidder whose Deposit is guaranteed by such Financial Surety Bond. If the Bonds are awarded to a bidder utilizing a Financial Surety Bond, then that winning bidder ("Purchaser") is required to wire transfer such amount as instructed by the Authority or its Financial Advisor not later than 3:30 PM EST on the next business day following the award. If such Deposit is not received by that time, the Financial Surety Bond may be drawn by the Authority to satisfy the Deposit requirement. No interest on the Deposit will accrue to the Purchaser. The Deposit will be applied to the purchase price of the Bonds. The Deposit accompanying any accepted bid shall be cashed and the proceeds thereof applied to the purchase price. In the event the successful bidder fails to honor its accepted bid, the Deposit will be retained by the Authority as and for full liquidated damages.

List of Members of Account: Bidders are requested to list on the bid form the names of the members of the account on whose behalf the bid is made. The successful bidder will be required to

submit a list of all syndicate members in addition to the managers not later than 24 hours after receiving a verbal award.

CUSIP: It is anticipated that CUSIP numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms hereof. The cost of the assignment of CUSIP numbers shall be paid by the Purchaser. It will be the responsibility of the Purchaser to obtain CUSIP numbers and to provide them to Bond Counsel and the Trustee.

Delivery; Form of Bonds: Delivery is expected to be made on or about July [27], 2004, or such other date as may be agreed upon by the City and the Purchaser. The Bonds will be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity of the Bonds will be issued to DTC, and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in the principal amount of five thousand dollars (\$5,000) or any multiple thereof, with transfers of ownership effected on the records of DTC and its participants. The Purchaser, as a condition to the delivery of their Bonds, shall be required to deposit the bond certificates with DTC, registered in the name of Cede & Co., its nominee.

Place of Delivery; Form of Payment: Delivery of the Bonds to the Purchaser will be made at DTC offices upon payment therefor in Federal Reserve Funds (immediately available) or at any other place agreeable to both the Authority and the Purchaser.

California Debt and Investment Advisory Commission Fee: All bidders are advised that it will be the responsibility of the Purchaser to pay the statutory fee to the California Debt and Investment Advisory Commission.

Bond Insurance: _____ has provided the City with its commitment to issue a municipal bond insurance policy (the "Bond Insurance Policy") insuring, when due, payment of principal and interest on the Bonds. The City will be responsible for payment of the cost of the premiums for the Bond Insurance Policy.

Ratings: Moody's Investors Service ("Moody's") and Standard & Poor's ("S&P") have assigned ratings of "Aaa" and "AAA," respectively, to the Bonds, conditioned on the issuance by the Bond Insurer of the Bond Insurance Policy at the time of delivery of the Bonds. In addition, S&P has assigned an underlying rating of "A+" and Moody's has assigned an underlying rating of "A2," to the Bonds based on their assessment of the City's ability to make payments with respect to the Bonds without giving effect to the Bond Insurance Policy. Such ratings reflect only the views of such organizations and any desired explanation of the significance of such ratings may be obtained from Moody's and S&P. Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. There is no assurance such ratings will continue for any given period of time or that such ratings will not be revised downward or withdrawn entirely by the rating agencies, if in the judgment of such rating agencies, circumstances so warrant. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the Bonds.

Certification: The Authority will deliver to the Purchaser one or more certificate(s) of an officer of the Authority and an officer of the City, dated the date of delivery of the Bonds, stating that, as of the date thereof, to the best knowledge of such officer: (i) that the Official Statement does not contain an untrue statement of a material fact or omit to state any material fact necessary, in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, (ii) that such officer knows of no material adverse change in the condition of the Authority (or the City, as

applicable) which would make it unreasonable for the purchaser of the Bonds to rely upon the Official Statement in connection with the resale of the Bonds, and (iii) that there is no litigation pending and which has been served upon the Authority (or the City, as applicable), or threatened against the Authority (or the City, as applicable), to restrain or enjoin the execution or delivery of the Bonds, the Indenture or the Sublease, or in any way questioning or affecting the validity of the foregoing or any of the proceedings for the authorization, sale, execution or delivery of the Bonds.

Continuing Disclosure: The City will covenant for the benefit of owners of the Bonds to cause certain financial information and operating data relating to the City to be provided in order to assist the purchaser in complying with Securities Exchange Commission Rule 15c2-12(b)(5). The specific nature of the financial information, operating data and material events to be disclosed on an ongoing basis is summarized in the Preliminary Official Statement.

Official Statement and Other Information: Copies of the Indenture, the Sublease, the Lease, this Official Notice Inviting Bids, the Bid Forms and Preliminary Official Statement will be furnished to any potential bidder upon request made to the Authority's Financial Advisor at: RBC Dain Rauscher, at 345 California Street, Suite 2800, San Francisco, CA 94104, telephone: (415) 445-8676, e-mail: richard.morales@rbcdain.com.

The Preliminary Official Statement is in a form deemed final by the Authority within the meaning of Rule 15c2-12(b)(1) (the "Rule") promulgated by the Securities and Exchange Commission except for the omission of certain information permitted to be omitted therefrom pursuant to the Rule, but is subject to revision, amendment and completion in a final Official Statement.

The Preliminary Official Statement is available on the Internet at www.i-dealprospectus.com. Bidders will be required to confirm their consent to delivery of the Preliminary Official Statement in electronic form and their review of a complete copy of the Preliminary Official Statement, as a condition to the acceptance of their bid by the City. The Internet posting of the Preliminary Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of, the securities described in the Preliminary Official Statement, in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. To obtain printed copies of the Preliminary Official Statement please contact the party set forth in the first paragraph of this section.

Upon the sale of the Bonds, the Authority will publish the Official Statement in substantially the same form as the Preliminary Official Statement subject to minor additions, deletions, and revisions as required to complete the Preliminary Official Statement. Promptly after the sale date for the Bonds, but in no event later than seven (7) business days after the sale date of the Bonds, the Authority will provide the Purchaser with a reasonable number of copies of the Official Statement. Such final Official Statement may be obtained, without cost to the Purchaser, in an amount not greater than 75 to be mailed to a maximum of two addresses. The Purchaser agrees to supply the Authority all pricing information necessary to complete the Official Statement within 24 hours after the award of the Bonds. Additional copies of the final Official Statement may be obtained at additional cost.

By making a bid for the Bonds, the Purchaser agrees to (1) disseminate to all members of the underwriting syndicate copies of the final Official Statement, including any supplements prepared by the Authority, (2) promptly file a copy of the final Official Statement, including any supplements prepared by the Authority, with a Nationally Recognized Municipal Securities Information Repository, and (3) take any and all other actions necessary to comply with applicable Securities and Exchange Commission rules and Municipal Securities Rulemaking Board rules governing the offerings sale and delivery of the Bonds and the Official Statement to ultimate purchasers.

Prospective bidders should review the form of opinion of Bond Counsel set forth in Appendix B to the Preliminary Official Statement.

Tax-Exempt Status: In the opinion of Richards, Watson & Gershon, A Professional Corporation, Los Angeles, California, Bond Counsel, based on existing law and assuming compliance with certain covenants set forth in the documents pertaining to the Bonds and requirements of the Internal Revenue Code of 1986, as amended (the “Code”), interest on the Bonds is not includable in gross income of the owners thereof for federal income tax purposes, and is not treated as an item of tax preference in calculating the federal alternative minimum taxable income of individuals and corporations. Interest on the Bonds, however, is included as an adjustment in the calculation of federal corporate alternative minimum taxable income and may therefore affect a corporation’s alternative minimum tax and environmental tax liabilities. In the further opinion of Bond Counsel, interest on the Bonds is exempt from personal income taxes imposed by the State of California. Bond Counsel will express no other opinion as to any federal or state tax consequences of the ownership or disposition of the Bonds.

In the event that prior to the delivery of the Bonds (a) the interest on other obligations of the same type and character shall be declared to be taxable (either at the time of such declaration or at any future date) under any federal income tax laws, either by the terms of such laws or by ruling of a federal income tax authority or official which is followed by the Internal Revenue Service, or by decision of any federal court, or (b) any federal income tax law is adopted which will have a substantial adverse effect upon owners of the Bonds as such, the successful bidder for the Bonds may, at its options prior to the tender of the Bonds, be relieved of its obligation under the contract to purchase the Bonds.

Qualification for Sale; Blue Sky: Compliance with blue sky laws shall be the sole responsibility of the Purchaser. The Authority will furnish such information and take such action not inconsistent with law as the purchaser may request and the Authority shall deem necessary or appropriate to qualify the Bonds for offer and sale under the blue sky or other securities laws and regulations of such states and other jurisdictions of the United States of America as may be designated by the Purchaser; provided, however, that the Authority shall not execute a general or special consent to service of process or qualify to do business in connection with such qualification or determination in any jurisdiction. The Purchaser will not offer to sell or solicit any offer to buy the Bonds in any jurisdiction where it is unlawful for such Purchaser to make such offer, solicitation or sale, and the Purchaser shall comply with the blue sky and other securities laws and regulations of the states and jurisdictions in which the Purchaser sells the Bonds.

Reoffering Price: The Purchaser will, within one hour after being notified of the award of the Bonds, advise the Financial Advisor of the initial public offering prices of the Bonds. The Purchaser will also be required, prior to delivery of the Bonds, to furnish a certificate acceptable to Bond Counsel, stating that the amount of the initial offering price to the public (excluding bond houses and brokers) at which a substantial portion (at least 10 percent) of the Bonds of each maturity were sold and that there was a bona fide public offering made of each maturity of the Bonds.

Right to Modify or Amend: The Authority reserves the right to modify or amend this Official Notice Inviting Bids; however, such notifications of amendments shall be made not later than one business day prior to the bid opening and communicated through The Bond Buyer Wire (available at TM3, the Thompson Municipal Market Monitor at www.tm3.com).

Postponement: The Authority reserves the right to postpone, from time to time, the date established for the receipt of bids. Any such postponement will be announced through The Bond Buyer Wire not later than 1:00 p.m., New York time, on the last business day prior to any announced date for receipt of bids. If any date fixed for the receipt of bids and the sale of the Bonds is postponed, any alternative sale date will be announced through The Bond Buyer Wire at least 24 hours prior to such alternative sale date. On any such alternative sale date, bidders must submit a bid for the purchase of the

Bonds in conformity in all respects with the provisions of this Official Notice Inviting Bids except for the date of sale and except for the changes announced through The Bond Buyer Wire.

DATED: July ___, 2004

MORGAN HILL FINANCING AUTHORITY

By /s/ J. Edward Tewes
Chief Administrative Officer

BID FORM
\$ _____*
MORGAN HILL FINANCING AUTHORITY
LEASE REVENUE BONDS
(POLICE FACILITY)
SERIES 2004

Dated: July __, 2004

To: Morgan Hill Financing Authority

Ladies and Gentlemen:

We offer to purchase all of the \$ _____* initial principal amount of Morgan Hill Financing Authority Lease Revenue Bonds (Police Facility), Series 2004 (the "Bonds"), more particularly described in your Official Notice Inviting Bids, dated as of July __, 2004, which is incorporated herein and made a part hereof, at a purchase price equal to the sum of (a) the principal amount thereof (b) [plus a premium of \$ _____] [less a discount of \$ _____], for an aggregate amount of \$ _____. This offer is for Bonds bearing interest at the rates and in the form of serial or term Bonds set forth on the second following page.

Unless otherwise designated in the space provided on the second following page, each maturity shall be a serial Bond. The rates of interest for all mandatory sinking account payments (including payment at maturity) of a designated term Bond must be identical and all identical rates will be deemed to be mandatory sinking account payments with respect to such term Bond.

This bid is subject to acceptance no later than twenty-six (26) hours after the expiration of the time established for the final receipt of bids. We have noted the right reserved in the Official Notice Inviting Bids to adjust the size of the various maturities, as more fully described under "TERMS OF BONDS – Adjustment of Principal Amount of Any Maturity."

We have previously submitted to you, or there is enclosed herewith, a financial surety bond meeting the specifications set forth in the Official Notice Inviting Bids or a certified or cashier's check drawn on a responsible bank or trust company transacting business in the State of California payable on the date hereof in the same day or next day funds to the order of the Morgan Hill Financing Authority in the amount of \$ _____. If this proposal is not accepted, said good faith check is to be returned to us promptly after the award of the Bonds to the winning bidder.

We have noted that payment of the purchase price is to be made in immediately available Federal Reserve Funds by wire transfer at the time of delivery of the Bonds.

Our calculation of the true interest cost, which is considered informative only and not a part of the bid, is _____%.

* Preliminary, subject to change.

We hereby request that _____ printed copies of the final Official Statement (a maximum of _____ copies to be mailed to no more than two addresses) be furnished at the expense of the Authority in accordance with the terms of the Official Notice Inviting Bids.

Subject to your acceptance hereof, we agree to make a bona fide public offering of all the Bonds at not in excess of the initial public offering prices (or less than the yields) set forth on the cover page of the Official Statement, plus accrued interest. We further agree to comply with the terms of the Official Notice Inviting Bids.

We represent that we have full and complete authority to submit this bid on behalf of our bidding syndicate and that the undersigned will serve as the lead manager for the group if the Bonds are awarded pursuant to this bid.

We certify (or declare) under penalty of perjury under the laws of the State of California that this proposal is genuine, and is not made in the interest of or on behalf of any person not named herein, and that the bidder has not directly or indirectly induced or solicited any other bidder or any other person, firm or corporation to refrain from bidding, and that the bidder has not in any manner sought by collusion to secure for itself an advantage over any other bidder.

Respectfully submitted,

Name of Firm

By:_____

By:_____

Address:_____

Telephone:_____

The following is a list of the members of our account on whose behalf this bid is made.

_____	_____
_____	_____
_____	_____

MATURITY SCHEDULE AND INTEREST RATES

<u>Maturity Date</u> <u>(July 15)</u>	<u>Principal</u> <u>Amount</u>	<u>Serial</u> <u>Maturity</u>	<u>Sinking Account</u> <u>Redemption</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>
		(Check One)			
2005	\$	_____	_____	_____%	_____%
2006		_____	_____	_____	_____
2007		_____	_____	_____	_____
2008		_____	_____	_____	_____
2009		_____	_____	_____	_____
2010		_____	_____	_____	_____
2011		_____	_____	_____	_____
2012		_____	_____	_____	_____
2013		_____	_____	_____	_____
2014		_____	_____	_____	_____
2015		_____	_____	_____	_____
2016		_____	_____	_____	_____
2017		_____	_____	_____	_____
2018		_____	_____	_____	_____
2019		_____	_____	_____	_____
2020		_____	_____	_____	_____
2021		_____	_____	_____	_____
2022		_____	_____	_____	_____
2023		_____	_____	_____	_____
2024		_____	_____	_____	_____
2025		_____	_____	_____	_____
2026		_____	_____	_____	_____
2027		_____	_____	_____	_____
2028		_____	_____	_____	_____
2029		_____	_____	_____	_____
2030		_____	_____	_____	_____
2031		_____	_____	_____	_____
2032		_____	_____	_____	_____
2033		_____	_____	_____	_____
2034		_____	_____	_____	_____

CONTINUING DISCLOSURE AGREEMENT

This **Continuing Disclosure Agreement** (the "Disclosure Agreement") is executed and delivered on this July 1, 2004, by the City of Morgan Hill (the "City") and BNY Western Trust Company, in its capacities as Trustee (the "Trustee") under the Indenture (hereinafter defined) and Dissemination Agent, in connection with the issuance of \$_____ Morgan Hill Financing Authority Lease Revenue Bonds (Police Facility), Series 2004 (the "Bonds").

The Bonds are being issued pursuant to an Indenture of Trust, dated as of July 1, 2004 (the "Indenture"), by and between the Morgan Hill Financing Authority and the Trustee. Proceeds of the Bonds will be used by the Authority to assist the City of Morgan Hill (the "City") in the financing of acquisition and improvement costs of a new police facility. The Bonds will be payable solely from Revenues (as defined in the Indenture) and certain funds and accounts held under the Indenture. Revenues consist primarily of Base Rental Payments payable by the City pursuant to a Sublease Agreement, dated as of July 1, 2004, by and between the Authority and the City.

The City, the Trustee and the Dissemination Agent hereby covenant and agree as follows:

Section 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

"Disclosure Representative" shall mean the City Manager of the City or his or her designee, or such other person as the City shall designate in writing to the Trustee and the Dissemination Agent from time to time.

"Dissemination Agent" shall mean the BNY Western Trust Company, acting in its capacity as the Dissemination Agent hereunder or any successor Dissemination Agent designated in writing by the City and which has filed with the City and the Trustee a written acceptance of such designation.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

"National Repository" shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule.

"Official Statement" shall mean the final Official Statement, dated July __, 2004, relating to the Bonds.

"Owners" shall mean the registered owners of the Bonds or, if the Bonds are registered in the name of a depository, the beneficial owners of the Bonds.

“Participating Underwriter” shall mean the original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“Repository” shall mean each National Repository and each State Repository.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State Repository” shall mean any public or private repository or entity designated by the State of California as a state repository for the purpose of the Rule. As of the date of this Disclosure Agreement, there is no State Repository.

Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than February 15 of each year, commencing with the report for the 2003-04 fiscal year, provide to each Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement, with a copy to the Trustee. Not later than fifteen (15) Business Days prior to said date, the City shall provide the Annual Report to the Dissemination Agent and the Trustee (if the Trustee is not the Dissemination Agent). The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report, and later than the date required above for the filing of the Annual Report if not available by that date. If the City’s fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c) hereof. The City shall provide a written certification with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by it hereunder. The Dissemination Agent may conclusively rely upon such certification of the City and shall have no duty or obligation to review such Annual Report.

(b) If within fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to the Repositories, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with subsection (a).

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to the Repositories by the date required in subsection (a), the Dissemination Agent shall send a notice to that effect to the Municipal Securities Rulemaking Board in substantially the form attached hereto as Exhibit A.

(d) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Report the name and address of each National Repository and each State Repository, if any, and

(ii) if the Annual Report has been furnished to the Dissemination Agent, file a report with the City and the Trustee (if the Dissemination Agent is not the Trustee) certifying that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided and listing all the Repositories to which it was provided.

Section 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following:

(a) Audited Financial Statements of the City for the most recent fiscal year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board, and as further modified according to applicable State law. If the City's audited financial statements are not available at the time the Annual Report is required to be filed pursuant to Section 3(a) hereof, the Annual Report shall contain unaudited financial statements in a format similar to the usual format utilized by the City, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available; and

(b) Outstanding principal amount of the Bonds and the balance of the Reserve Account relating to the Bonds, as of the preceding December 31st.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which have been submitted to each of the Repositories or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (7) Modifications to rights of Bond Owners;
- (8) Optional, contingent or unscheduled Bond calls;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds;
- (11) Rating changes.

(b) The Trustee shall, promptly upon obtaining actual knowledge of the occurrence of any of the Listed Events contact the Disclosure Representative, inform such person of the event, and request that the City promptly notify the Dissemination Agent in writing whether the Listed Event is material and, if so, whether or not to report the event pursuant to subsection (f), and promptly notify the Trustee in writing whether or not to report the event to the Owners (unless notice to the Owners is already required by the Indenture). For purposes of this Disclosure Agreement, "actual knowledge" of the occurrence of such Listed Events shall mean actual knowledge by the officer at the Trust Office of the Trustee with regular responsibility for the administration of the Indenture

(c) Whenever the City obtains knowledge of the occurrence of a Listed Event, whether because of a notice from the Trustee pursuant to subsection (b) or otherwise, the City shall as soon as possible determine if such event would be material under applicable federal securities law.

(d) If the City determines that knowledge of the occurrence of a Listed Event would be material under applicable federal securities law, the City shall promptly notify the Dissemination Agent and the Trustee in writing. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (f) and shall instruct the Trustee to report the occurrence to the Owners of the Bonds affected by the occurrence of such event.

(e) If in response to a request under subsection (b), the City determines that the Listed Event is not material, the City shall so notify the Dissemination Agent and the Trustee in writing and instruct the Dissemination and the Trustee to not report the event.

(f) If the Dissemination Agent has been instructed by the City to report the occurrence of a Listed Event, the Dissemination Agent shall promptly file a notice of such occurrence with the Municipal Securities Rulemaking Board and each Repository, with a copy to the Trustee. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds pursuant to the Indenture.

Section 6. Termination of Reporting Obligation. The City's obligations under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination on the same manner as for a Listed Event under Section 5(c) hereof.

Section 7. Dissemination Agent. The City may, from time to time, appoint or engage a Disseminating Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be BNY Western Trust Company. The Dissemination Agent may resign by giving thirty (30) days written notice to the City and the Trustee.

Section 8. Amendment; Waiver. Notwithstanding any other provision herein to the contrary, any provision in the Disclosure Agreement may be amended or waived (and the Trustee and the Dissemination Agent shall agree to any such amendment or waiver requested by the City, provided that neither the Trustee nor the Dissemination Agent shall be obligated to enter into any amendment or agree to any waiver that modifies or increases its duties or obligations hereunder), provided that the following conditions are satisfied:

(a) the amendment or waiver, if it relates to annual or event information to be provided, is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the City or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would have complied with the requirements of the Rule at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances;

(c) the proposed amendment or waiver (i) is approved by Owners of the Bonds in the manner provided in the Indenture for amendments to the Indenture with the consent of Owners, or (ii) does not, in the opinion of the Trustee or nationally recognized bond counsel, materially impair the interest of Owners; and

(d) no amendment increasing or affecting the obligations or duties of the Dissemination Agent or the Trustee shall be made without the consent of either party.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the annual financial information containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to the undertaking specifying the accounting principles to be followed in preparing financial statements, the annual financial information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the City to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative. A notice of the change in the accounting principles shall be sent to the Repositories.

Section 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If Agency chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the City shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 10. Default. In the event of a failure of the City to comply with any provision of this Disclosure Agreement, the Trustee at the written request of any Participating Underwriter or holders of at least a majority in aggregate amount of Outstanding Bonds, shall, but only to the extent indemnified to its satisfaction from and against any loss, cost, expense or liability of any kind whatsoever, including, without limitation, fees and expenses of its attorneys and additional fees and expenses of the Trustee, or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Agreement in the event of any failure of the City, the Trustee or the Dissemination Agent to comply with this Disclosure Agreement shall be an action to compel performance.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as amended from time to time and all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall have no duty or obligation to review any information provided to them hereunder and shall not be deemed to be acting in any fiduciary capacity hereunder for

the City, the Owners, or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

Section 12. Beneficiaries. The Disclosure Agreement shall inure solely to the benefit of the City, the Dissemination Agent, the Trustee, the Participating Underwriter and holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 13. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Disclosure Agreement on the date first written above.

CITY OF MORGAN HILL

By: _____
City Manager

BNY WESTERN TRUST COMPANY,
as Trustee and Dissemination Agent

By: _____
Authorized Officer

EXHIBIT A

NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD OF
FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Morgan Hill Financing Authority

Name of Bond Issue: \$_____ Lease Revenue Bonds (Police Facility), Series 2004

Date of Issuance: July __, 2004

NOTICE IS HEREBY GIVEN that the City of Morgan Hill (the "City") has not provided an Annual Report with respect to the above-named Bonds as required by Section 3 of the Continuing Disclosure Agreement, dated July 1, 2004, executed by and between the City and BNY Western Trust Company, as Trustee and Dissemination Agent. The City anticipates that the Annual Report will be filed by _____.

Dated: _____, 20__.

BNY WESTERN TRUST COMPANY,
as Dissemination Agent on behalf of the City of
Morgan Hill

By: _____
Name: _____
Title: _____

cc: City of Morgan Hill, City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: July 7, 2004

HEARING FOR EXEMPTION TO UNDERGROUNDING UTILITIES – 16415 MONTEREY ROAD

RECOMMENDED ACTIONS:

1. Open and close Hearing.
2. Grant exemption to the requirement to underground utilities with payment in lieu fees for the proposed development at 16415 Monterey Road.

Agenda Item # 27

Prepared By:

Assistant Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

EXECUTIVE SUMMARY: A commercial development at 16415 Monterey Road was conditioned to underground the overhead utility lines along Monterey Road. The development has 141 linear feet of frontage along Monterey Road. Pursuant to City Code Section 12.02.110 (attached), the developer is requesting exemption from the requirement to underground the overhead utility wires and request to pay an in-lieu fee instead. Staff supports this request on the basis that the installation of these improvements on such a small scale would not be cost effective and could be installed more efficiently as a portion of a larger installation of improvements at a later date.

FISCAL IMPACT: In-lieu fees totaling \$14,523 will be placed in the Undergrounding Fund #350-37648 if this exemption is approved.



CITY COUNCIL STAFF REPORT

MEETING DATE: JULY 7, 2004

Agenda Item # 28

Prepared By:

Finance Director

Submitted By:

City Manager

REVENUE INCREASE REVIEW

RECOMMENDED ACTION:

Continue discussion of new revenue sources and provide direction to staff

EXECUTIVE SUMMARY: On February 18, the City Council assigned the following goal to the Finance & Audit Committee “Prior to Council consideration of the City Manager’s Recommended Budget in May, 2004, the Finance & Audit Committee shall prepare and recommend a plan for Council to consider new revenue options, including a plan on how best to obtain community input.” This strategy calls for a combination of steps, including the drawdown of reserves, expenditure reductions, and revenue increases, so that General Fund revenues and expenditures will be in balance by June 30, 2008. The Strategy specifically requires \$800,000 of ongoing new annual revenues beginning in 2005/06, followed by an additional \$400,000 of ongoing new annual revenues beginning in 2006/07.

County staff notified us on the evening of 6/25 that they are considering placing a general sales tax on the November 2004 ballot. They inquired as to whether cities would rather participate in a County-wide half-cent sales tax that would be split 1/3 cities and 2/3 County or would rather see the county levy a ¼ cent sales tax in the unincorporated area. Morgan Hill’s share of the half-cent sales tax would be approximately \$1 million per year, which is close to the \$1.1 million that would be raised by a Morgan Hill ¼ cent sales tax. The Finance and Audit Committee convened a special meeting on 6/30 to discuss this proposal. They recommended that the City Council take a position on the County proposal and direct the Council representative on the Santa Clara County Cities Association Board to present this position to that board. The Committee raised the following points concerning the County proposal:

- The ½ cent County-wide sales tax would raise \$1 million for the City
- The ½ cent County-wide tax would cost City taxpayers twice as much as a ¼ cent City sales tax
- The County-wide tax would not give any one jurisdiction an economic advantage
- The County-wide tax would not continue the current economic destiny of jurisdictions
- The County-wide tax would support needed County services
- There would be a lack of specificity, or restriction, as to how tax dollars would be spent
- The momentum for a new tax would be under a County-wide umbrella
- Taxes under the County-wide proposal may come in sooner than under other proposals

The Finance & Audit Committee presented the attached Revenue Increase Review on June 2 for the Council’s consideration. The City Council continued discussion on June 16 and directed the Committee to produce a matrix that could be used by the City Council to rate each potential new revenue source. The City Council indicated that the Committee should include criteria for financing existing services vs. expanded services and for indicating if each revenue requires a ballot measure in November 2004 to be implemented. Attached are the following matrices produced by the Committee:

- Blank matrix for ranking revenues that can be completed by hand (where a 3 would rate a revenue as high in the criterion, 2 would rate it as medium, and 1 would rate it as low)
- Matrix for ranking revenues that can be completed electronically
- Previous matrix with revenues rated as high, medium, and low, previously completed by staff
- Previous matrix with revenues rated as 3, 2, and 1, previously completed by the Committee
- Revenue estimates for potential new revenues

FISCAL IMPACT: Without \$1.2 million in new ongoing annual revenues for the General Fund, it is projected that the City will not be able to maintain the current level of services in the future.

	November Election ?	
Majority Vote	Yes	Sales Tax (General Tax)
2/3 Vote	No	Sales Tax (Special Tax)
Majority Vote	Yes	Bus. License Tax
Majority Vote	Yes	Utility Users Tax
Majority Vote	Yes	Development Tax
2/3 Vote	No	Mello Roos Tax
2/3 Vote	No	Parcel Taxes
2/3 Vote	No	Police and Fire Tax
Council Vote	No	Park Field Rental
Council Vote	No	Emergency Dispatch
Council Vote	No	Other Fee for Service
Majority Prop Own	No	Lighting & Landscape
Majority Prop Own	No	Fire Suppression Dist
Council Vote	No	Franchises

Fairness and Equity - Similarly situated taxpayers should be taxed similarly	Transparency and Visibility - Taxpayers know tax, how administered, & when imposed	Neutrality - Impact of tax on business and consumption decisions should be minimal	Certainty - Tax rules specify when and how to pay and how amount is determined	Economic Growth and Efficiency - Tax shouldn't impede productive capacity of economy	Total Ranking *
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-
0	0	0	0	0	-

* Please by your valuation of each item with **High = 3, Medium = 2, Low = 1**

	Fairness & Equity *	Transparency & Visibility	Minimum Tax Gap	Neutrality	Certainty	Convenience of Payment	Economy of Collection	Simplicity	Economic Growth & Efficiency	Appropriate Government Revenues	Total Ranking **
Sales Tax (special tax)	High	High	High	Medium	High	High	High	High	Medium	Medium	27
Sales Tax (general tax)	High	Medium	High	Medium	High	High	High	High	Medium	Medium	26
Bus. License Tax	Varies	Low	Varies	Medium	Varies	Medium	Low	Varies	Varies	Varies	18
Utility Users Tax	High	Low	High	High	High	High	High	High	High	High	28
Documentary xfer Tax	High	Low	High	High	High	High	High	High	High	Medium	27
Development Tax	Low	Low	High	Medium	High	Low	High	High	Medium	Low	20
Mello Roos Tax	Low	High	High	Medium	Varies	High	High	Varies	High	High	25
Parcel Taxes	Low	High	High	High	High	High	High	High	Medium	High	27
Police and Fire Tax	Low	High	High	High	High	High	High	High	Medium	High	27
Park Field Rental	Low	High	High	Medium	High	High	High	High	Medium	High	26
Emergency Dispatch	Medium	Medium	High	High	High	High	High	High	High	High	28
Lighting & Landscape	Low	High	High	High	Varies	High	Medium	High	Medium	High	25
Fire Suppression Dist	Low	High	High	High	Varies	High	High	High	Medium	High	26
Franchises	High	Low	High	High	High	High	High	High	High	High	28
Total Ranking**	26	30	41	36	38	39	39	40	33	36	

* If fees are a flat amount

** High = 3, Medium & Varies = 2, Low = 1

[illegible]

Revenue Estimates	General Tax Majority Vote	Special Tax 2/3 Voter Approval	Fee No Voter Approval	Assessment Majority of Prop Owners	Franchise Revenue No Voter Approval
Sales Tax	\$1,100,000	\$2,200,000			
Bus. License Tax	\$300-\$600,000				
Utility Users Tax	\$650,000				
Development Tax	TBD				
Mello Roos Tax		TBD			
Parcel Taxes		\$850,000			
Police and Fire Tax		\$850,000			
Park Field Rental			\$10,000		
Emergency Dispatch			\$800,000		
Other Fee for Service			TBD		
Lighting & Landscape				\$800,000	
Fire Suppression Dist				\$4,000,000	
Franchises					\$190,000

Revenue Increase Review

**Finance and Audit
Committee
City of Morgan Hill**

Wednesday June 2nd 2004

Revenue Increase Review

**From the City Council Policies and Goals for 2004
Adopted February 18th 2004**

Goal: Prior to Council consideration of the City Manager's Recommended Budget in May 2004, the Finance and Audit Committee shall prepare and recommend a plan for Council to consider new revenue options, including a plan on how best to obtain community input.

Revenue Increase Review

Finance and Audit Committee recommendations for evaluating Revenue increases for the City's General Fund

1. Educate the public on the situation with the City budget, the strategic planning the council has done to deal with it, and demonstrate the extent to which spending cuts are a part of that long term plan.
2. Answer the question – Why is a revenue increase needed?
3. Specify the Dollar amount and timing:
 - \$800,000 annual increase from the baseline* by FY05/06
 - \$1,200,000 annual increase from the baseline* by FY06/07

* Baseline = Tax Structure x Economic base

Revenue Increase Review

Finance and Audit Committee recommendations for evaluating Revenue increases for the City's General Fund

4. Revenue Estimates

	General Tax Majority Vote	Special Tax 2/3 Voter Approval	Fee No Voter Approval	Assessment Majority of Prop Owners	Franchise Revenue No Voter Approval
Sales Tax	\$1,100,000	\$2,200,000			
Bus. License Tax	\$300-\$600,000				
Utility Users Tax	\$650,000				
Development Tax	TBD				
Mello Roos Tax		TBD			
Parcel Taxes		\$850,000			
Police and Fire Tax		\$850,000			
Park Field Rental			\$10,000		
Emergency Dispatch			\$800,000		
Other Fee for Service			TBD		
Lighting & Landscape				\$800,000	
Fire Suppression Dist				\$4,000,000	
Franchises					\$190,000

Revenue Increase Review

Finance and Audit Committee recommendations for evaluating Revenue increases for the City's General Fund

5. Examine Many vs. Few/One Revenue Source
6. Examine increasing User Fees (Complete Cost Recovery) vs. going to the Voters for broad based tax increases
7. Identify Selection Criteria and evaluate options based on Criteria
 - **Fairness and Equity** Similarly situated taxpayers should be taxed similarly
 - **Transparency and Visibility** Taxpayers knows tax, how administered, & when imposed
 - **Neutrality** Impact of tax on business and consumption decisions should be minimal
 - **Certainty** Tax rules specify when and how to pay and how amount is determined
 - **Economic Growth and Efficiency** Tax shouldn't impede productive capacity of economy
 - **Appropriate Revenue** Provide adequate and reliable revenues to meet the objective

Revenue Increase Review

Finance and Audit Committee recommendations for evaluating Revenue increases for the City's General Fund

8. Revenue matrices for review
9. Discuss Plans for Incremental Economic Development and Current Inhibitors to Development
10. Community Input
 - Advisory Ballot Measure (\$)
 - Community Polling (\$)
 - Community Workshops (\$)
 - Community Blue Ribbon Task Force (\$)

Revenue Increase Review

Finance and Audit Committee recommendations for evaluating Revenue increases for the City's General Fund

11. Committee Recommends to try to
 - Avoid Divisiveness
 - In the Community
 - On the Council
 - Objective: Unanimous Decision
12. Communicate timing for November Ballot Measure
 - Staff developed calendar – July 21st KEY FINAL DATE

Revenue Increase Review

**Finance and Audit Committee recommendations for
evaluating Revenue increases for the City's General Fund**

Addendum

[illegible]

					employee count or gross receipts (current tax combination of flat fee/employee count)
UTILITY USERS TAX	general tax	majority of electorate	estimate of up to \$650,000 per 1% tax rate	general	Can be applied to gas, electric, telephone, sewer, water, refuse, cable tv, and pay phone & mobile phone calls orig. in City

Revenue Sources (Continued)

Revenue Source	Revenue Type	Voter Approval Required? Who Votes?	Estimated Potential Annual Dollars	Use of Revenue	Comments
DEVELOPMENT TAX	general tax	majority of electorate	to be determined	general	Excise tax on privilege, activity, or availability of development or use of municipal services. Imposed on new construction based on no. of units, no. of bedrooms, or square footage.
MELLO ROOS TAX	special tax	2/3 approval of electorate	to be determined	land purchase & capital costs (including park, recreation, open space, libraries). Services: recreation, library, police, fire, ambulance, flood & storm, paramedic, hazardous clean-up, parks, open space, museums, & cultural facilities	Very flexible formulas allowed. Tax allocation not tied to benefit. Levied against real property. When used for services, the fee must be charged for new services only to parcels receiving services
PARCEL TAXES	special tax	2/3 approval of electorate	to be determined \$100 tax per parcel would generate \$850,000	Public safety, stormwater, cultural center, street maint., library & recreation services	Excise tax that may be applied at a flat per-parcel rate or on a unit rate (based on use, size, &/or no. of units. Proportionality of benefit to taxpaid by payers required

Revenue Sources (Continued)

Revenue Source	Revenue Type	Voter Approval Required? Who Votes?	Estimated Potential Annual Dollars	Use of Revenue	Comments
POLICE & FIRE TAX	special tax	2/3 approval of electorate	to be determined \$100 tax per parcel would generate \$850,000	Police and/or fire services & capital costs (types of costs must be specified in ballot measure)	Rate can be same for all parcel owners or can be based upon relative benefits received by each Can be applied city-wide or in zones that vary with benefit
FRANCHISES	franchise revenue	no	\$190,000	general	Refuse rate locked in for term of contract. Cable tv limited to max charged. PG&E not negotiable. (While City's rate for refuse is already relatively high at 16%, it could be increased to 20%
LIGHTING & LANDSCAPE ASSESSMENT	assessment	majority of property owners	\$800,000	maintenance of parks, landscaping, lighting, traffic signals, tree maintenance, sidewalk maintenance & graffiti abatement	Property owner vote is weighted by dollar assessments
FIRE SUPPRESSION DISTRICT	assessment	majority of property owners	\$4 million	fire suppression: obtain, furnish, operate & maintain fire services & apparatus; fire personnel salaries & benefits	Property owner vote is weighted by dollar assessments

PRINCIPLES TO GUIDE THE SUSTAINABLE BUDGET STRATEGY

It is suggested the Council adopt the following principles to guide the Sustainable Budget Strategy:

1. Critical services should be maintained to the greatest extent possible.
2. Resources should be allocated to the highest priority services.
3. No city services or functions should be exempt from evaluation.
4. “Across the Board” approaches shall be avoided because they are not aligned with the Council’s and community’s priorities.
5. Reductions in service should position the City to take advantage of economic recovery.
6. Budget cuts should be ongoing and not simply “one time only.”
7. Council should commit to support employees during the transition, and assist those who may be adversely impacted.
8. Employees and their recognized bargaining units should be actively involved in developing options and implementing the transition.
9. The City should continue to invest in building organizational capacity by supporting training and employee development.
10. Community wide tax resources should be allocated first to support community wide services.
11. Special services designed for only a few should be paid for by user charges and fees.
12. Administrative and operational efficiencies should be maximized before pursuing new tax revenue.
13. Reserves and one time revenues should be used first to invest in capital outlay items that could reduce long range operating costs and, thereafter, fund transition expenses.
14. New services should not be added nor existing services expanded unless they are highly valued by the community and there is a willingness to pay for them.
15. There should be regular monitoring of financial performance and opportunities to make mid-course corrections as warranted.
16. City policies that may inhibit economic development, especially new retail development, should be reviewed regularly and modified.



CITY COUNCIL STAFF REPORT

MEETING DATE: July 7, 2004

COMMUNITY INDOOR RECREATION CENTER BUDGET DIRECTION DURING CONSTRUCTION DOCUMENTS DESIGN PHASE

RECOMMENDED ACTION: Provide budget direction.

EXECUTIVE SUMMARY: The Community Indoor Recreation Center (CIRC) remains on schedule. Construction documents will be 50% complete in September of 2004. See attached Exhibit A - Council approved schedule.

Agenda Item # 29

Prepared By:

**Dep Dir
PW/Operations**

Approved By:

Public Works Director

Submitted By:

City Manager

Council approved the start of Construction Documents at their April 7, 2004 meeting. Shortly after, a professional consultant agreement was entered into with Nova Partners to provide additional cost estimating services and to work closely with Noll & Tam Architects to refine and confirm the project budget. Construction costs, Project or "Soft" costs, and FF&E costs were closely reviewed. Further refinements are yet to be made as the project progresses, but appropriate placeholder costs have been established. Project contingencies were closely examined and as a result the general project contingency established in early budget formulation was categorized into the following amounts as a percentage of construction cost: Design 5%, Escalation 3%, Course of Construction 5%, and General Project 3%. These contingencies will remain available as the project proceeds with any unused balances being carried forward. Noll and Tam Architects and Nova Partners have advised staff that these percentages are prudent and appropriate.

The budget refinement process discovered a \$395,000 shortfall, primarily in the Soft Costs category, due to Construction Management costs being higher than first estimated. Construction management costs are now appropriately established at 4% of construction costs. This percentage is consistent with our recent experience with construction management costs for the Community Cultural Center at 4% and at the Aquatics Center at 5% of construction costs.

Staff met with CIRC Council Subcommittee Members to discuss this funding shortfall. Further value engineering considerations were discussed. However, considerable value engineering had already occurred during the latter phase of Design Development reducing the construction costs by \$431,000. While several additional items were considered for potential value engineering cost savings, the Council Subcommittee Members agreed that it was not prudent to reduce the building costs further. The average cost per square foot is now established at \$295. Noll & Tam Architects do not advise reducing the cost per square foot further. Consideration also was given to reduce the size of the Gymnasium or bid it as an alternate item. However, this would result in approximately \$60,000 in additional design costs and severely impact the cost recovery potential of the building reducing annual revenue recovery by \$200,000 in the 3rd year. Eliminating the Gymnasium entirely saved approximately \$1.3 million in construction costs. However, this savings would be negated in approximately 4 years considering the impact on cost recovery.

Tonight, Council's direction is needed on how to address the identified \$395,000 funding shortfall. Possible considerations are: 1) Continue to Value Engineer the Project or, 2) Discuss additional funding options.

FISCAL IMPACT: Dependent upon Council direction.



CITY COUNCIL STAFF REPORT

MEETING DATE: JULY 7, 2004

RESPONSE TO GRAND JURY FINAL REPORT – INQUIRY INTO THE BOARD STRUCTURE AND FINANCIAL MANAGEMENT OF THE VALLEY TRANSPORTATION AUTHORITY

RECOMMENDED ACTION(S):

1. Discuss the Grand Jury's Recommendations I and II; and
2. Authorize Mayor Kennedy to submit the responses to the Grand Jury on the form provided with the report.

EXECUTIVE SUMMARY:

The Santa Clara County Civil Grand Jury issued the attached report entitled, "Inquiry Into the Board Structure and Financial Management of the Valley Transportation Authority.

The Valley Transportation Authority's (VTA) Board is composed of 12 voting members, five alternates, and as many as two ex-officio members, all elected officials who are appointed to serve on the Board by the jurisdictions they represent. Currently, Mayor Dennis Kennedy is serving on the Board as an alternate member.

According to California Penal Code Section 933.05, the City is required to respond to the Grand Jury's findings and recommendations. For this particular report, the Grand Jury has determined there is no response needed for any of their Findings I-III. The City is required, however, to respond to Recommendations I and II. For purpose of discussion, these recommendations are quoted below.

Recommendation I

"The current structure of the VTA Board should be made more responsive to the needs and financial management of the regional transportation system as a whole by providing for, via enabling legislation, members dedicated to transportation that are either directly elected, appointed as their main public service responsibility, or some combination of the two. The enabling legislation should be sponsored by one or more of the major constituent agencies in the VTA, such as the County Board of Supervisors."

Recommendation II

"The current size of the VTA Board should be reduced, via enabling legislation, to a smaller Board of 5 to 7 members that would be more involved in and accountable for the financial and operational management of VTA. The enabling legislation should be sponsored by one or more of the major constituent agencies in the VTA, such as the County Board of Supervisors."

The City is required to respond to the above recommendations with 1 of 4 possible actions as noted on the attached form. In short, these actions include: 1) have been implemented; 2) have not yet been implemented, but will be implemented in the future; 3) require further analysis; and 4) will not be implemented because they are not warranted or are not reasonable.

FISCAL IMPACT:

None.

Agenda Item #

Prepared By:

**Approved and
Submitted By:**

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: July 7, 2004

Agenda Item # 31

Prepared By:

Deputy Director PW

Approved By:

Department Director

Submitted By:

City Manager

REVIEW OF VTA'S VTP 2030 PROJECT LIST

RECOMMENDED ACTION: The Mayor requests additional review and discussion of the attached proposed VTA VTP 2030 program area lists to confirm City priorities.

EXECUTIVE SUMMARY: The Valley Transportation Authority (VTA), which has been designated the Congestion Management Agency for Santa Clara County, is currently updating the Valley Transportation Plan (VTP) 2020. The update will be called VTP 2030 and will become the blueprint for long-range transportation planning and funding prioritization for the County's federal and state discretionary funds.

The wide variety of transportation projects in VTP 2030 are contained in the program area project lists that the VTA Board of Directors are now considering. The program area project lists are broken down into several categories which are described in the attached VTA Board January 30, 2004 meeting agenda. The categories are Transit, Freeway/Highways, Expressways, Local Streets and County Roads (LS&CR), Intelligent Transportation Systems (ITS), Bicycle, Sound Mitigation, Landscape and Graffiti Removal, Pavement Management, and Livable Communities.

On March 17, 2004, the Council was presented the proposed VTP 2030 program and, by consensus, "Received the Proposed Valley Transportation Authority's VTP 2030 Program Area Lists for Impact to the City of Morgan Hill". The attached March 17th staff report lists the projects that the City has listed in the current draft of the VTP 2030 program. It should be noted that the Highway 101 Widening between Morgan Hill and Gilroy which was carried in the VTP 2020 program is also in the VTP 2030 program although it falls below the recommended funding cut-off level for the Freeways/Highways category.

There is a new project that staff feels is worth considering for a future update to the VTP 2030 program. The future connection of Butterfield Blvd. to Hale Avenue at the north end of Morgan Hill will most likely include a grade separation at the Union Pacific tracks. While the connection between Butterfield Blvd. and Hale Avenue is included in the General Plan, a grade separation was not contemplated until recently and therefore does not have a funding plan. The estimated cost of a grade separation is \$14 million. It will not be possible to include such a project in the current draft of the VTP 2030, however, staff recommends that the Council give direction to submit to the VTA the Butterfield to Hale grade separation project for the Local Streets and County Roads category at the next opportunity.

The Mayor has requested that the Council re-visit the proposed VTP 2030 program area project lists to confirm the City's priorities as they are now proposed. The present schedule calls for the VTA Board to approve VTP 2030 in October of this year.

FISCAL IMPACT: There is no current year fiscal impact with this action.



CITY COUNCIL STAFF REPORT
MEETING DATE: *July 7, 2004*

EMERGENCY AUTHORIZATION FOR WELL DRILLING

RECOMMENDED ACTION(S):

1. Adopt the attached Resolution declaring the need for this emergency expenditure.
2. Appropriate \$350,000 from the current year unappropriated Water fund (653) balance for this project.
3. Approve expenditure of funds not to exceed \$550,000 for construction of emergency well.

EXECUTIVE SUMMARY: As Council is aware, perchlorate has been detected in two existing wells, and even though the levels are below the action level (AL) set by DOHS, the wells remain off line at this time. The City must construct an additional well as soon as possible to replace the lost water production from these wells. The only viable short term option for avoiding a water shortage emergency for the City is the construction of a new well using the emergency procurement procedures where we waive the formal bidding requirements of the public bid law. Staff has been working with a property owner to acquire a portion of his property off of Butterfield Boulevard just south of the Morgan Hill Business Park, near a City water line where we can quickly connect a new well to our water supply. (see attached site map)

The attached proposal was prepared by Luhdorff & Scalmanini and provides a scope of work and budget estimates for engineering and construction of the emergency well. We anticipate that the emergency well would be operational in 120 days.

FISCAL IMPACT: The total project cost for this emergency well is \$550,000. \$200,000 is available as carry-over from our 03-04 Capital Improvement Program (CIP) Budget, Project #601093. Staff requests an additional appropriation of \$350,000 from our current year unappropriated Water fund (653) balance. These costs were anticipated in our most recent water rate analysis as perchlorate related costs and will be tracked separately with reimbursement pursued from the Olin Corporation.

Agenda Item # 32

Prepared By:

Senior Civil Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL
DECLARING THE NEED FOR AN EMERGENCY EXPENDITURE FOR A NEW
WATER WELL IN ACCORDANCE WITH PUBLIC CONTRACT CODE 20168**

WHEREAS, an emergency currently exists since two of the City's 12 production wells have been taken out of service due to potential perchlorate contamination; and

WHEREAS, unless full pumping well capacity is restored within the 120 days that will be required to drill and equip the well under emergency procurement procedure the water demand in the City may be above our well pumping capacity and a water shortage may result; and

WHEREAS, a water shortage would create great and extraordinary public calamity since water would not be sufficient for drinking nor fire protection purposes; and

THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill that it does resolve, determine and order the following:

1. Dunne II and Condit Wells have been temporarily taken out of service and a new well is needed to continue to provide drinking and fire protection water to the citizens of Morgan Hill.
2. By a majority vote of those present at the City Council meeting on July 7, 2004, the Council finds, based upon the foregoing reasons, that the immediate preservation of the public peace, health and safety requires said purchase to be made without competitive bids.
3. The sum of \$550,000 is hereby approved for expenditure for emergency well drilling and equipment.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 7th day of July, 2004 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CERTIFICATION

I, **IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. adopted by the City Council at the Regular City Council Meeting of July 7, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL DECLARING THE NEED FOR AN
EMERGENCY EXPENDITURE FOR A NEW WATER WELL IN
ACCORDANCE WITH PUBLIC CONTRACT CODE 20168**

WHEREAS, an emergency currently exists since two of the City's 12 production wells have been taken out of service due to potential perchlorate contamination; and

WHEREAS, unless full pumping well capacity is restored within the 120 days that will be required to drill and equip the well under emergency procurement procedure the water demand in the City may be above our well pumping capacity and a water shortage may result; and

WHEREAS, a water shortage would create great and extraordinary public calamity since water would not be sufficient for drinking nor fire protection purposes; and

THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill that it does resolve, determine and order the following:

1. Dunne II and Condit Wells have been temporarily taken out of service and a new well is needed to continue to provide drinking and fire protection water to the citizens of Morgan Hill.
2. By a majority vote of those present at the City Council meeting on July 7, 2004, the Council finds, based upon the foregoing reasons, that the immediate preservation of the public peace, health and safety requires said purchase to be made without competitive bids.
3. The sum of \$550,000 is hereby approved for expenditure for emergency well drilling and equipment.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 7th Day of July, 2004 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🔑 CERTIFICATION 🔑

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 7, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk